



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 22]

शिमला, शनिवार, 14 सितम्बर, 1974/23 भाद्रपद, 1896

[संख्या 37

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भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश हाई कोर्ट

NOTIFICATION

Simla-1, the 24th August, 1974

No. HHC/GAZ/3-30/71-10428.—The Hon'ble the Chief Justice is pleased to accord sanction for 12 days commuted leave on medical grounds subject to title with effect from 1st July, 1974 to 12th July, 1974 (both days inclusive) to Shri A. L. Vaidya, Senior Sub-Judge-cum-Chief Judicial Magistrate, Kangra at Dharamsala.

Certified that Shri A. L. Vaidya would have continued to work as Senior Sub-Judge-cum-Chief Judicial Magistrate, but for his proceeding on leave during the above period.

Also certified that Shri Vaidya has joined the same post and station after the expiry of the above leave.

By order,
KEDARISHWAR,
Registrar.

हिमाचल प्रदेश सरकार

PERSONNEL (A) DEPARTMENT

NOTIFICATIONS

Simla-2, the 2nd September 1974

No. 3-54/71-Appnt.—The Governor, Himachal Pradesh is pleased to accord sanction to the grant of six days earned leave in favour of Shri R. L. Mehta, S. D. M. Chamba, with effect from 16th September to 21st September, 1974 with permission to prefix 2nd Saturday and Sunday falling on the 14th and 15th September, 1974.

2. Certified that Shri Mehta would have continued to officiate as S.D.M. Chamba but for his proceeding on leave mentioned above.

3. Certified that Shri Mehta is likely to resume his duty at the station from where he is to proceed on leave mentioned above.

Simla-2, the 2nd September, 1974

No. 3-22/74-DP(Apptt.).—The Governor, Himachal Pradesh is pleased to accord sanction to the grant of 16 days earned leave in favour of Shri R. R. Chauhan, S.D.M. Pangi, Chamba district, with effect from 16th August to 31st August, 1974 with permission to prefix and suffix Gazetted holiday and Sunday falling on the 15th August, 1974 and 1st September, 1974 respectively, subject to verification of title to leave admissible to him.

2. Certified that Shri R. R. Chauhan would have continued to officiate as S.D.M. Pangi, but for his proceeding on leave mentioned above.

3. Certified that Shri Chauhan is likely to resume his duties at the station from where he had proceeded on leave mentioned above.

Simla-2, the 6th September, 1974

No. 3-2/64-Apptt.—In supersession of this Government Office Order of even number, dated the 12th April, 1972, the Governor, Himachal Pradesh is pleased to order the sanction to the creation of an ex-cadre post of Superintendent of Police, in the un-revised pay scale of Rs. 600-40-1000-1000-1050-1150, on permanent basis for the period from 18th September, 1959 to 31st March, 1960 and in the senior time scale of I.P.S. (revised) i.e. 740-1300, for the period from 1-4-1960 to 22-12-1967, in lieu of the post of Superintendent of Police, subsequently included in the I.P.S. cadre, which was held in abeyance during that period. Pay in the revised pay scale of Rs. 740-1300 will be fixed according to the formula evolved by the Government of India, *vide* their letter No. 1/33/60-AIS(II), dated the 28th February, 1962.

A. K. GOSWAMI,
Joint Secretary.

Simla-2, the 6th September, 1974

No. 1-15/73-DP-Apptt. I.—In partial modification of this Department notification of even number, dated the 7th June, 1974, the Governor, Himachal Pradesh is pleased to order the transfer and posting of Shri B. D. Sharma, a Select List Officer of I.A.S., presently posted as Deputy Secretary to the Government of Himachal Pradesh, as Deputy Commissioner, Una district, Una with immediate effect in public interest.

U. N. SHARMA,
Chief Secretary.

COMMUNITY DEVELOPMENT DEPARTMENT NOTIFICATIONS

Simla-171004, the 23rd August, 1974

No. 4-76/73-E (DEV).—The Governor, Himachal Pradesh is pleased to order that Shri Charan Singh, Panchayat Inspector, Bharmour Block will hold the current charge of the post of Block Development Officer, Bharmour Block and Shri G. S. Chandel, Panchayat Inspector, Chachiot Block will hold the current charge of the post of Block Development Officer, Chachiot

Block, temporarily, in addition to their own duties, with immediate effect without getting any extra remuneration till regular arrangements to fill up these posts are made.

Simla-4, the 23rd August, 1974

No. 4-247/69-E-Dev.—On the recommendations of the Departmental Promotion Committee (Class II), the Governor, Himachal Pradesh is pleased to appoint the following *ad hoc* Block Development Officers as Block Development Officers on regular basis in the pay scale of Rs. 350-25-500-30-590/30-800 with immediate effect:

1. Shri Puran Chand Sharma.
2. Shri K. N. Raina.
3. Shri K. C. Sharma.
4. Shri Rup Singh Chandel,
5. Shri Nand Lal Sharma.
6. Shri Shiv Prashad Sharma.
7. Shri Lal Man Sharma.
8. Shri Durga Singh Thakur.
9. Shri K. L. Sharma.
10. Shri Laxman Singh.
11. Shri M. L. Sharma.
12. Shri Amba Prashad Bhandari.

The above officers will continue to remain posted at their present places of posting.

2. The *inter se* seniority of these officers amongst themselves or *viz-a-viz* other Block Development Officers will be determined later.

Simla-4, the 26th August, 1974

No. 4-113/72-E (Dev).—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to make the following addition in the Himachal Pradesh Community Development Department, Class IV, Service (Recruitment, Promotion and certain Conditions of Service) Rules, 1972, issued *vide* this Department's notification of even number, dated the 16th June, 1973, with immediate effect:—

The following new rule be added after rule 16 of the aforesaid rules:—

17 *Power to relax.*—Where the Government is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these Rules with respect to any class or category of persons/posts.

K. C. PANDEYA,
Secretary.

EDUCATION DEPARTMENT NOTIFICATION

Simla-2, the 30th August, 1974

No. 1-132/69-Sectt. Edu-A.—The Governor, Himachal Pradesh is pleased to retire from service Shri K. C. Sachdeva, Principal, Government Deree College, Mandi

on his attaining the age of superannuation with effect from 30th September, 1974 (A.N.).

By order,
ANANG PAL,
Secretary.

FINANCE REGULATION DEPARTMENT NOTIFICATION

Simla-171002, the 31st August, 1974

No. 1st/73-Fin. (Reg.).—The Governor, Himachal Pradesh is pleased to declare Deputy Commissioner, Chamba as Head of Office and Disbursing Officer under Head "254-Treasury and Accounts Administration-(b) Treasury Establishment-(b)(i)-District Treasuries and Sub-Treasuries", as also Controlling Officer for the purpose of T. A. etc. in respect of Class III and IV employees of Treasuries posted in District Chamba, till the post of Treasury Officer, Chamba is filled up.

N. C. KAUSHAL,
Deputy Secretary.

GENERAL ADMINISTRATION DEPARTMENT (SECTION D) NOTIFICATIONS

Simla-2, the 29th August, 1974

No. 6-4/73-GAD (Pub.).—On the recommendations of Himachal Pradesh Public Service Commission, the Governor, Himachal Pradesh is pleased to appoint Shri Brahm Dev Bhalla, District Mass Education and Information Officer, Kangra, as District Public Relation Officer (Gazetted Class-II) in the scale of Rs. 350-25-500-30-590/30-830/35-900, with immediate effect.

2. Shri Brahm Dev Bhalla, will be on probation for a period of two years in the first instance.

3. The appointment of Shri Brahm Dev Bhalla is subject to production of 'No Objection Certificate', from his parent department.

4. The Governor is further pleased to post Shri Brahm Dev Bhalla, as District Public Relation Officer, Kulu.

Simla-2, the 29th August, 1974

No. 6-4/73-GAD(Pub.).—On the recommendations of the Himachal Pradesh Public Service Commission, the Governor, Himachal Pradesh is pleased to appoint Shri Parma Nand, as District Public Relation Officer (Gazetted Class-II), in the pay-scale of Rs. 350-25-500-30-590/30-830/35-900, on regular basis, with effect from 10th July, 1974.

2. He will be on probation for a period of 2 years in the first instance.

Simla-2, the 29th August, 1974

No. 6-4/73-GAD(Pub.).—The Governor, Himachal Pradesh on the recommendations of the Departmental Promotion Committee and with the approval of the Himachal Pradesh Public Service Commission, is pleased to appoint the following officials to officiate as District Public Relation Officers (Class-II Gazetted), in the pay scale of Rs. 350-25-500-30-590/30-830-35-900, with immediate effect:—

- (1) Shri B. C. Bhaik, A.P.R.O. (Presently working as *ad hoc* D.P.R.O. Bilaspur);
- (2) Shri D. R. Gupta, Reception Officer in the office of the Director Public Relations H.P.

(3) Shri K. L. Vaidya, Sub-Editor, in the office of the Director, Public Relations, H.P.

2. The above officers will be on probation for a period of two years from the date of taking over the charge of the post of District Public Relation Officer, in the first instance.

B. D. SHAUNAK,
Under Secretary.

HEALTH & FAMILY PLANNING DEPARTMENT NOTIFICATION

Simla-2, the 9th August, 1974

No. 1-41/68-H&FP.—The Governor, Himachal Pradesh is pleased to cancel the notification of even number, dated 17-12-71 appointing Dr. B. K. Sofat an Officer of Specialists Grade of C. H. S. as Lecturer in Ophthalmology in Himachal Pradesh Medical College, Simla.

C. M. CHATURVEDI,
Secretary.

HORTICULTURE DEPARTMENT CORRIGENDUM

Simla-2, the 31st August, 1974

No. 38-26/70-Hort. Sectt.—Please substitute the words "Managing Director, H. P. Horticultural Produce Marketing and Processing Corporation Private Limited, Simla-1", for the words "Officer on Special Duty (World Bank Project), Himachal Pradesh, Simla" appearing at page 1, Serial No. 8, of this Government notification of even number, dated the 13th/14th February, 1974 regarding establishment of a Central Project Committee for ensuring the proper coordination of all agencies responsible for the World Bank Project and for proposing annual work programme.

V. D. VERMA,
Under Secretary.

INDUSTRIES DEPARTMENT NOTIFICATION

Simla-2, the 30th August, 1974

No. 4-34/72-SI (EMP).—In partial modification of this Department's notification of even number, dated the 25th August, 1972 regarding the reconstitution of the District Committee on Employment at the Employment Exchange, Kulu (Kulu district), the Governor of Himachal Pradesh is pleased to order that the name of Shri Sat Prakash Thakur, Managing Director, Bhutti Weavers Industrial Co-operative Society, Shamshi (Kulu) may be substituted in place of Shri Bed Ram of the aforesaid society appearing at Sr. No. 8 of the above mentioned notification, who has since expired.

By order,
P. K. MATTOO,
Secretary.

LABOUR DEPARTMENT NOTIFICATION

Simla-171002, the 29th August, 1974

No. 2-170/69-SI.—Whereas the persons having the control over the affairs of the public institution specified in column I of the schedule given below which is an institution where a manufacturing process is carried on and which is maintained for the purpose of education and training, have not changed the terms and conditions

of the employment of the employees specified in the Himachal Pradesh Government notification of even number, dated the 4th September, 1971 and this continue to remain the same in respect of the persons employed in or attending the institution specified in column I of the schedule.

And whereas the Government of Himachal Pradesh is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of the Factories Act, 1948 (Act No. 63 of 1948), relating to hours of work, holidays and intervals for meals.

Now, therefore, in exercise of the powers conferred by section 86 of the Factories Act, 1948 (Act No. 63 of 1948) the Governor of Himachal Pradesh is pleased to exempt the institution specified in column I of the said schedule from the provisions of the Factories Act, 1948, specified in column II of the schedule for a further period of one year with effect from 11th September, 1974 to 10th September, 1975.

SCHEDULE

I	II
Central Research Institute, Kasauli, District Solan.	Chapters III, V (except section 46, 47) VI, VII, VIII (except in case of casual and temporary workers).

By order,
P. K. MATTOO,
Secretary.

PUBLIC WORKS DEPARTMENT

CORRIGENDUM

Simla-2, the 29th/30th May, 1974

No. 1-49/69-PWA-III.—Please carry out the following corrections in the names of the Assistant Engineers appearing in this office notification of even number dated the 2nd/7th May, 1974;—

Serial No. of the notification	Particulars of correction
	GRADUATES ASSISTANT ENGINEERS
29.	Read "Umesh Nandan Sharma" instead of "Umesh Nand Sharma".
43	Read "Surinder Kumar Sharda" instead of "Surinder Kumar Sharma".
55	Read "Partap Singh Dogra" instead of "Partap Singh Dogram".
	DIPLOMA HOLDER ASSISTANT ENGINEERS
60	Read "Ranbir Chand Singla" instead of "Ranbir Singh Singla".
65	Read "Pishori Lal Almadi" instead of "Kishori Lal Almadi".
72	Read "Bhagwati Parshad" instead of "Bhagwati Parkash".

GANGESH MISRA,
Commissioner/Secretary.

NOTIFICATIONS

Simla-2, the 18th June, 1974

No. 2-35/70-PW-B.—Whereas the Governor, Himachal Pradesh is satisfied that land is needed by the Government at the public expense, for a public purpose, namely for the construction of Road from Khalini near Hawback Garrages to Kasumpti in Simla district, it is hereby declared that the land described in the specification below is required for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Land Acquisition Collector, U.S. Club, Simla-1, is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected in the office of the Land Acquisition Collector, Simla, Bilaspur and Mahasu districts, Simla-1 and the Executive Engineer, Division IV, Himachal Pradesh Public Works Department, Simla-9.

In view of the urgency of the acquisition, the Governor Himachal Pradesh in exercise of the powers under section 17(i) of the said Act, is further pleased to direct that the Land Acquisition Collector shall proceed to take possession out of the land herein specified any waste or arable land in accordance therewith.

SPECIFICATION

District: SIMLA

Tehsil: SIMLA

Village	Khasra No.	Area Big.Bis.
KASUMPTI-	87/1	0 1
JUNGA	33/1	0 5
	26/1	0 5
	16/1	0 19
Total 4		1 10

By order,
GANGESH MISRA,
Secretary.

Simla-171002, the 30th August, 1974

No. 1-115/72-PWA.—The Governor, Himachal Pradesh, is pleased to place the services of Shri Sadhu Singh, Executive Engineer, Irrigation & Flood Control Division, Simla, with the Himachal Pradesh Housing Board, Simla on deputation (Foreign Service) on usual terms and conditions with immediate effect.

GANGESH MISRA,
Secretary.

Simla-171002, the 30th August, 1974

No. 2-35/70-PW-B.—Whereas it appears to the Governor, Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Lador-Hatwarh Road, it is hereby declared that the land described in the specification below is required for the above purpose.

2. The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh P.W.D. is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh P.W.D., U.S. Club, Simla.

SPECIFICATION

District: BILASPUR Tehsil: GHUMARWIN

Village	Khasra No.	Area	
		Big.	Bis.
JANDOT/ 328	267/1/1	0	2

By order,
GANGESH MISRA,
Secretary.

REVENUE DEPARTMENT NOTIFICATIONS

Simla-2, the 28th/29th August, 1974

No. 2-27/73-Rev. I.—In exercise of the powers vested in him under section 3 (2) of the Punjab Restitution of Mortgaged Lands Act, 1938, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to specially empower the following officers who are Assistant Collectors of the First Grade, to perform the duties of a Collector for the purposes of the said Act to be exercised by them within the local limits of their respective jurisdictions as specified against each, from the date they took over the charge of the post:—

Name of Officer Area of jurisdiction

- Shri P. I. Suvrathan, Sub-Divisional Officer (Civil) Kandaghat Sub-Division.
Kandaghat, District Solan.

Name of Officer Area of jurisdiction

- Miss Suneeta Dhillon, Sub-Divisional Officer (Civil), Nurpur, District Kangra.
- Shri Mohinder Singh, Sub-Divisional Officer (Civil), Kangra, District Kangra.

Simla-2, the 29th August, 1974

No. 13-6/70-Rev. I.—The Governor, Himachal Pradesh is pleased to extend the tenure of the Bhakra Project Oustees Rehabilitation Advisory Committee, constituted vide this Government notification of even No. dated the 18th July, 1972 and further extended for one year vide notification of same No. dated 13-9-1973 for a further period of one year on the same terms and conditions.

Simla-2, the 29th August, 1974

No. 10-31/72-Rev. A.—In exercise of the powers vested in him under clause (d) of section 3 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No. 19 of 1973) and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to empower General Assistant to Deputy Commissioner, Solan, as Collector for the purposes of the said Act within jurisdiction of Solan district, with effect from the date of issue of this notification.

By order,
L. HMINGLIANA TOCHHAWNG,
Secretary.

भाग 2—बैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएँ इत्यादि

AGRICULTURE DEPARTMENT NOTIFICATION

Simla-5, the 26th August, 1974

No. 7-9/74-Agr. I.—In exercise of the powers vested in me vide Supplementary Rule 191, I hereby declare the Project Officer, Palampur as Controlling Officer to countersign T. A. Bills/Medical Reimbursement claims etc. of Assistant Agricultural Marketing Officer, Palampur, District Kangra. This also disposes of all the previous orders issued in this behalf.

B. S. JOGI,
Director.

PUBLIC WORKS DEPARTMENT NOTIFICATIONS

Simla-2, the 28th August, 1974

No. SE. IV. R. 8/74-16515-18.—Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for Ghana-ki-Hatti-Bazol Road, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to whom it may concern.

In exercise of the powers conferred by the aforesaid section the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Simla & Bilaspur districts, Simla.

SPECIFICATION

District: SIMLA Tehsil: SIMLA

Village	Khasra No.	Area	
		Big.	Bis.
PADHOCH	4	1	10
	1272/5	2	10
	1271/5	0	10
	1104/1	12	0
Total		16	10

TARA CHAND,
Superintending Engineer,
W. Circle, H.P.P. W. D. Simla.

Dharamsala, the 5th September, 1974

No. SE/PHCD/WS-LA-PLP-22/73.—Whereas it appears to the Governor of Himachal Pradesh that the land is required to be taken by the Government at public expenses for a public purpose, namely for "Tapping of Sugal Nallah Spring for Water Supply Scheme Jaisinghpur, Tehsil Palampur, District Kangra," it is hereby declared that the land described in the specification below is required for the said purpose.

2. The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894 to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal Pradesh P.W.D., is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh P.W.D., Kangra.

SPECIFICATION

District: KANGRA Tehsil: PALAMPUR

MAUZA	Khasra No.	Area K. M.
CHADHIAR TIKA: MATIAL	676/2/1	1 0

M. C. VAKIL,
Superintending Engineer,
Public Health Circle,
H.P. P.W.D., Dharamsala.

Whereas it appears to the Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for Water Supply Scheme Parwanoo, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writings before the Collector of Land Acquisition, Solan.

No. SE-III-WSS-63/74-20525-28.

Solan, the 30th August, 1974

SPECIFICATION

District: SOLAN Tehsil: KASAUALI

Village	Khasra No.	Area Big. Bis.
1	2	3 4
GUMA	16	9 9
	147/65	9 3
	142/65	10 16
Total		29 8

No. SE-III-WSS/63-74-20529-32.—Solan, the 30th August, 1974

KAMALI	28	6 1
	187/156	205 9
	178/116/2	98 16
	176/8	6 0
	177/8	21 0
Total		337 6

M. L. BANSAL,
Superintending Engineer,
III Circle, H.P. P.W.D., Solan.

कार्यालय जिलाधीश, किन्नौर मण्डल, हिमाचल प्रदेश

अधिसूचना

कल्पा, 29 अगस्त, 1974

संख्या कनर-378/73.—हिमाचल प्रदेश पंचायती राज अधिनियम, 1968 की धारा 68, उप-धारा (1) तथा हिमाचल प्रदेश पंचायत समिति (सदस्यों के सहविकल्प) नियम, 1973 के नियम 9(बी) के अनुसार मैं, एस० के० सूद, जिलाधीश, किन्नौर मण्डल, हिमाचल प्रदेश उन सदस्यों के नाम जिन्हें पंचायत समिति, कल्पा के प्राथमिक सदस्यों ने पंचायत समिति कल्पा की बैठक दिनांक 28-8-1974 को हिमाचल प्रदेश पंचायती राज अधिनियम, 1968 की धारा 67 के अन्तर्गत सहविकल्पित किया है एवं साधारण की मूचना के लिये निम्ने दी गई सारणी अनुसार अधिसूचित करता हूँ:—

सारिणी

पंचायत समिति का नाम	सहविकल्पित सदस्यों के नाम तथा पता	अधिनियम की धारा 63 (ख) (1) (2) (3) के अन्तर्गत महिला अनुसूचित जाति तथा सहकारी समितियों के प्रतिनिधि होने का विवरण
1	2	3

कल्पा	1. श्रीमति श्याम सरणी पत्नी श्री धर्म सिंह नेगी, गांव चीनी, डाकघर तथा तह-सील कल्पा ।	महिला सदस्या
	2. श्रीमति बिद्या पत्नी श्री टीकम सिंह नेगी, गांव तथा डाकघर किलंबा, तह-सील सांगला ।	महिला सदस्या
	3. श्री छिमद सुपुत्र श्री रि-गछन गांव चीनी, डा०ब० तथा तहसील कल्पा ।	सदस्य अनुसूचित जाति ।

1	2	3	1	2	3
4.	श्री अकल दास सुपुत्र श्री जीवदास, गांव तथा डाक-घर बल्ल्या, तहसील सांगला ।	सदस्य अनुसूचित जाति ।	7.	श्री इन्दर लाल, गांव तेलंगी, डाकघर कोठी, तहसील कल्या ।	सहकारी समिति-श्री का प्रतिनिधि ।
5.	श्री छमर मुख सुपुत्र श्री गिन्दिया, गांव तथा डाक-घर व तहसील सांगला ।	सदस्य अनुसूचित जाति ।	8.	श्री देवराज सिंह सुपुत्र श्री डण्डुप छोपेल, गांव तथा डाकघर किलवा, तहसील सांगला ।	सहकारी समिति-श्री का प्रतिनिधि ।
6.	श्री ऊमा मुख सुपुत्र श्री जान मुख, गांव तथा डाक-घर गोंग, तहसील सांगला ।	सदस्य अनुसूचित जाति ।			एस 0 के 0 सूद, जिलाधीन ।

AGRICULTURE DEPARTMENT

NOTIFICATION

Nalagarh, the 30th August, 1974

No. Agr. 5-7/72.—Whereas the District Land Development Committee of Solan district has prepared the Land Development Schemes under section 4 of Himachal Pradesh Land Development Act, 1973 in respect of the area given against each scheme indicated below. And whereas all the persons effected by the said schemes and also the Gram Panchayat/Panchayats concerned have consented to the execution of these schemes.

And whereas the State Government keeping in view the consent of the persons aforesaid and after consideration the Committee has sanctioned the schemes under section 5(2) of the said Act.

Now, therefore, the schemes sanctioned by the Committee under section 5(2) are published in the Rajpatra, Himachal Pradesh for the information of all concerned as required by section 6 of the said Act and it shall come into force immediately.

Sl. No.	Scheme No.	Name of beneficiary	Area in acres	Village	Estimated cost	Purpose for which sanctioned
1	2	3	4	5	6	7
TEHSIL NALAGARH						
1.	NLG. SLN-13/73-74	Shri Mula Ram	2.80	Kasambowal	1996.00	Levelling
2.	NLG. SLN-15/73-74	Shri Khazan Singh	5.25	Ranguwal	4126.00	-do-
3.	NLG. SLN-19/73-74	Shri Durga etc.	5.18	Bhanglan	4140.00	Minor irrigation
4.	NLG. SLN-20/73-74	Shri Tulsia and Situ	1.41	Plasra	1110.00	Levelling
5.	NLG. SLN-26/73-74	Shri Chuhar Singh	4.11	Kotlan	4195.00	-do-
6.	NLG. SLN-28/73-74	Shri Meru	3.31	Bhatian	3354.00	-do-
7.	NLG. SLN-2/74-75	Shri Inder Singh	3.65	Barson	3480.00	Minor irrigation
8.	NLG. SLN-3/74-75	Shri Inder Singh	4.13	Barson (Behram-pur).	4048.00	Levelling
9.	NLG. SLN-4/74-75	Shri Ram Dayal	2.53	Chakliaunti	2024.00	Bench terracing
10.	NLG. SLN-5/74-75	Shri Joginder Singh etc.	0.66	Manpura	1036.00	Levelling
11.	NLG. SLN-6/74-75	Shri Rameshwar Dass etc.	4.90	Musal	4200.00	Bench terracing
12.	NLG. SLN-8/74-75	Shri Ram Rakha	4.98	Bhatian	4000.00	Levelling
13.	NLG. SLN-9/74-75	Shri Devi Ram	4.89	Kauri	4000.00	Minor irrigation
14.	NLG. SLN-1/74-74	Critical eroded scheme	56.20	Zagatkhana	25200.00	Critical eroded area to be executed from contingencies.
TEHSIL KANDAGHAT						
1.	KGT. SLN-27/73-74	Shri Ram Singh	11.74	Katoh	9100.00	Terracing
2.	KGT. SLN-28/73-74	Shri Jeet Ram	9.76	Nain	7554.00	-do-
3.	KGT. SLN-29/73-74	Shri Grokhia	20.05	Bodhan	22598.00	-do-
4.	KGT. SLN-36/73-74	Shri Nokhia etc.	1.57	Binnu	1228.00	-do-
5.	KGT. SLN-38/73-74	Shri Bish Ram and Sita Ram	8.80	Nain	6954.00	-do-

1	2	3	4	5	6	7
6.	KGT. SLN-39/73-74	Shri Jai Ram etc.	2.12	Ranhog	2115.00	Terracing
7.	KGT. SLN-42/73-74	Shri Yash Pal etc.	1.56	Dharyan	1221.00	-do-
8.	KGT. SLN-43/73-74	Shri Gorkhia	4.75	Parag	4198.00	-do-
9.	KGT. SLN-44/73-74	Shri Makroru	1.63	Masrimanj-groan.	1728.00	-do-
10.	KGT. SLN-45/73-74	Shri Gita Ram	5.47	Ranhog	4950.00	-do-
11.	KGT. SLN-46/73-74	Shri Hastu	4.80	Paran	4998.00	-do-
12.	KGT. SLN-47/73-74	Shri Prem Dass	2.70	Naunimanj-groan.	2868.00	-do-
13.	KGT. SLN-48/73-74	Shri Masta Mahis	5.90	Banani	4750.00	-do-
14.	KGT. SLN-49/73-74	Shri Polo Ram etc.	1.43	Kothi	1190.00	-do-
15.	KGT. SLN-50/73-74	Shri Surti	0.65	Dharja	800.00	-do-
16.	KGT. SLN-51/73-74	Shri Bish Ram	2.18	Amber	2388.00	-do-
17.	KGT. SLN-52/73-74	Shri Rulia	1.74	Naunimanj-groan.	1706.00	-do-
18.	KGT. SLN-53/73-74	Shri Ramunu	1.00	-do-	1110.00	-do-
19.	KGT. SLN-54/73-74	Shri Chet Ram	5.17	Sherbanera	4758.00	-do-
20.	KGT. SLN-55/73-74	Shri Shanker etc.	3.57	Amber	3230.00	-do-
21.	KGT. SLN-56/73-74	Shri Mohan Singh etc.	1.00	Kailer	798.00	-do-
22.	KGT. SLN-57/73-74	Shri Roop Ram etc.	0.83	Samlech	664.00	-do-
23.	KGT. SLN-58/73-74	Shri Rama Nand etc.	2.06	Nadaon	1854.00	-do-
24.	KGT. SLN-59/73-74	Shri Ram Krishan	3.34	-do-	3000.00	-do-
25.	KGT. SLN-60/73-74	Smt. Dolma	7.46	Phangari	6331.00	-do-

TEHSIL SOLAN

1.	SDR. SLN-1/73-74	Shri Gorkhia etc.	8.61	Manlog	5210.00	Irrigation
2.	SDR. SLN-2/73-74	Shri Sunder Singh	5.15	Daroge	4974.00	Terracing.
3.	SDR. SLN-3/73-74	Smt. Amar Devi	5.36	Oach	6432.00	-do-
4.	SDR. SLN-4/73-74	Shri Jagtia	7.07	Gadhok	6294.00	-do-
5.	SDR. SLN-5/73-74	Shri Jash Ram	2.39	Sarwan	1906.00	-do-
6.	SDR. SLN-6/73-74	Shri Soba Ram	2.10	Lohanji	1890.00	-do-

TEHSIL KASAUJI

1.	KSL. SLN-2/73-74	Shri Rajinder Singh etc.	10.98	Cheog	8235.00	Irrigation
2.	KSL. SLN-3/73-74	Shri Shankar Lal	11.22	-do-	8415.00	-do-
3.	KSL. SLN-4/73-74	Shri Hardev Singh etc.	26.21	Malhari	19620.00	-do-
4.	KSL. SLN-5/73-74	Shri Ram Dayal	4.92	Sheet	4994.00	Terracing
5.	KSL. SLN-6/73-74	Shri Rattan Lal	1.58	Kandole	1272.00	-do-

TEHSIL ARKI

1.	ARK. SLN-1/74-75	Shri Beli Ram	1.66	Giana	1968.00	Terracing
2.	ARK. SLN-2/74-75	Shri Moti Ram	1.42	Kawdhar	1128.00	-do-
3.	ARK. SLN-3/74-75	Shri Devi Saran	1.35	Khandole	1484.00	-do-
4.	ARK. SLN-4/74-75	Shri Munshi Ram	2.87	Kaw	3442.00	-do-
5.	ARK. SLN-5/74-75	Shri Ram Lal	1.52	Dasal	1216.00	-do-
6.	ARK. SLN-6/74-75	Shri Sham Lal Sharma	2.18	Chhatera	1744.00	-do-
7.	ARK. SLN-7/74-75	Shri Ram Charan	2.53	Chalyan	3036.00	-do-
8.	ARK. SLN-8/74-75	Shri Devi Ram Bhatu	6.19	Shergalothian	4952.00	-do-
9.	ARK. SLN-9/74-75	Shri Baboo Ram	1.62	Giana	1296.00	-do-
10.	ARK. SLN-10/74-75	Shri Dharma Nand	2.15	Karara	1720.00	-do-
11.	ARK. SLN-11/74-75	Shri Jai Dev Sharma	4.39	Battal	3512.00	-do-
12.	ARK. SLN-12/74-75	Shri Lachhi Ram	2.17	Dudawana	1736.00	-do-
13.	ARK. SLN-13/74-75	Shri Nathu	4.86	Dhatithamranan	3888.00	-do-
14.	ARK. SLN-14/74-75	Shri Chet Ram	0.38	Dhianpur	304.00	-do-
15.	ARK. SLN-15/74-75	Shri Chandu	1.44	-do-	1152.00	-do-
16.	ARK. SLN-16/74-75	Shri Sukh Ram	3.22	Karara	2576.00	-do-
17.	ARK. SLN-17/74-75	Shri Kameshwar Sharma etc.	5.96	Bhawan	4954.00	-do-
18.	ARK. SLN-18/74-75	Shri Lachhu Ram	1.39	Giana	1484.00	-do-
19.	ARK. SLN-19/74-75	Shri Jamnu	2.04	Karara	2448.00	-do-
20.	ARK. SLN-20/74-75	Shri Balu etc.	2.45	Giana	2000.00	-do-
21.	ARK. SLN-21/74-75	Shri Devi Ram	1.39	Sukhan	1192.00	-do-
22.	ARK. SLN-22/74-75	Shri Sant Ram	2.87	Kaug	3384.00	-do-

1	2	3	4	5	6	7
23.	ARK. SLN-23/74-75	Shri Lekh Ram	1.26	Karara	1426.00	Terracing
24.	ARK. SLN-24/74-75	Shri Nandu	3.28	Gohar	2576.00	-do-
25.	ARK. SLN-25/74-75	Shri Jiwa Nand	2.15	Sorian	1744.00	-do-
26.	ARK. SLN-26/74-75	Shri Gopal	2.17	Giana	1744.00	-do-
27.	ARK. SLN-28/74-75	Shri Hari Ram	0.69	Baga	806.00	-do-
28.	ARK. SLN-30/74-75	Shri Mehar Chand	1.79	Pukhro	1720.00	-do-
29.	ARK. SLN-31/74-75	Shri Tikhu Ram	1.73	Kajiara	1288.00	-do-
30.	ARK. SLN-32/74-75	Shri Parma	1.90	Sukhan	2448.00	-do-
31.	ARK. SLN-33/74-75	Shri Jamna Dass	2.33	Nauni Baga	1960.00	-do-
32.	ARK. SLN-34/74-75	Shri S. S. Shashi etc.	2.91	Battal	3442.00	-do-
33.	ARK. SLN-35/74-75	Shri Nand Lal	6.54	Barog	998.00	-do-
34.	ARK. SLN-36/74-75	Shri Puria	3.86	Kajiara	3,000.00	-do-

Sd/-
Assistant Soil Conservation Officer.

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेंशियल कमिश्नर तथा कमिश्नर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

COMMUNITY DEVELOPMENT DEPARTMENT

NOTIFICATION

Simla-171004, 24th August, 1974

No. 4-67/61-E(DEV).—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to make the following amendment/addition to the Recruitment & Promotion Rules for the posts of Block Development Officers (Class II) notified *vide* this Department's notification of even number, dated the 18th July, 1967:—

AMENDMENT

The following shall be substituted for the existing provision contained in Column 11 at page 2 of the Rules annexed to the said notification:—

1. Social Education Organisers 30%
 2. Head Clerks 15%
 3. Extension Officers (Agriculture) 10%
 4. Extension Officers (Co-operative) 5%
 5. Extension Officers (Panchayats) 5%
 6. Extension Officers (Horticulture) 5%
 7. Extension Officers (Industries) 5%
- (with about five years service in the respective grades).

ADDITION

Notes:—1. Upper age-limit for direct recruits will not be applicable to candidates already in the service of the Government.

2. Upper age-limit is relaxable for Scheduled Castes/Tribes candidates and other categories of persons to the extent permissible under the general or special order of the Himachal Pradesh Government.

3. The Commission, in consultation with the Government may relax the age and qualifications for direct recruits in case

candidates of prescribed age and qualifications are not available.

4. Provisions of Columns 10 & 11 are to be revised by the Government in consultation with the Himachal Pradesh Public Service Commission, as and when the number of posts under Col. No. 2 is increased or decreased.

5. Age-limit for direct recruits will be reckoned from the last date fixed for receipt of applications by the Commission.

6. When the Government is of the opinion that it is necessary or expedient to do so it may by order for reasons to be recorded in writing and in consultation with the Himachal Pradesh Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons or post.

7. Selection for appointment by direct recruitment to these posts shall be made on the basis of *viva-voce* test, if the Commission so considers necessary or expedient, by a written test, the standard/syllabus etc. of which will be determined by the Commission or a practical test.

2. This amendment/addition shall come into force with effect from the date of publication of this notification in the official gazette of the Government of Himachal Pradesh.

K. C. PANDEYA,
Secretary.

GENERAL ADMINISTRATION DEPARTMENT (SECTION A)

NOTIFICATIONS

Simla-2, the 17th June, 1974

No. 16-27/68-GAD-I.—In exercise of the powers vested in him, the Governor, Himachal Pradesh under the proviso to Article 309 of the Constitution of India is pleased to make following rules in respect of Himachal Pradesh Class III (Dharmarth) Services in regard to the

State-owned Sikh Gurdwaras at Kandaghat and Chail in Solan district, in the following matters, namely:—

- (i) The method of recruitment of the Himachal Pradesh Dharmarth Staff Class-III;
- (ii) The qualifications necessary for appointment to such services and posts; and
- (iii) The conditions of service of persons appointed to such services and posts for the purposes of probation, confirmation, seniority etc.

RECRUITMENT RULES

PART I—GENERAL

1. *Short title and commencement.*—(a) These rules may be called Himachal Pradesh (Dharmarth) Class-III Services (Recruitment, Promotion and certain condition of Service) Rules, 1974.

(b) These rules shall come into force with effect from the date of notification in the official gazette.

2. *Definition.*—In these rules, unless there is anything repugnant in the subject or context.—

- (a) 'Governor' means the Governor of Himachal Pradesh.
- (b) 'Government' means the Government of Himachal Pradesh.
- (c) 'Recognised University' means any University incorporated by law in Union of India or any other University which may be declared by the Himachal Pradesh Government to be recognised University for the purpose of these rules.
- (d) 'Service' means the Himachal Pradesh Dharmarth Class-III Services.
- (e) 'Appointing Authority' means the Secretary to the Government of Himachal Pradesh in the General Administration Department, or any other authority appointed by the Government to perform the duties of Secretary, General Administration Department.
- (f) 'Head of Department' means the Secretary, Government of Himachal Pradesh in the General Administration Department, or any other authority appointed to perform the duties of the Secretary, General Administration Department, Himachal Pradesh.
- (g) 'Direct appointment' means an appointment made otherwise than by promotion from amongst the members of Class-IV Dharmarth Service or by transfer of an official already in the service of Himachal Pradesh Government.
- (h) 'Post' means the post in the State-owned Gurdwaras of Kandaghat and Chail in Solan district, Himachal Pradesh.
- (i) 'Scheduled Castes' means castes, races or tribes or parts of groups within the castes, races or tribes specified in the Constitution (Scheduled Castes) Order, 1950 as amended by section 19(i) read with the first Schedule of the State of Himachal Pradesh Act, 1970 (53 of 1970) and as it may be further amended from time to time.
- (j) 'Scheduled Tribes' means the tribes, or tribal communities or part of or groups within tribes or tribal communities specified in the Schedule to the Constitution (Scheduled Tribes) Orders, 1950 as amended by section 20(i) read with Third Schedule of the State of Himachal Pradesh Act, 1970 (53 of 1970) and as it may further be amended from time to time.
- (k) 'Departmental Promotion Committee' means the Committee constituted by the Government of Himachal Pradesh to recommend existing

officers of class IV services for promotion to the higher existing grades or class of posts to class III services.

- (l) 'Sikh' means a person professing Sikh religion and qualifies to be called as such under the provisions of Delhi Sikh Gurdwaras Act, 1971.
- (m) 'Gurdwaras' means the State-owned Sikh Gurdwaras situated at Kandaghat and Chail in Solan district, Himachal Pradesh.

PART II—RECRUITMENT TO SERVICE

3. *Character of posts.*—The Character (i.e. designation grade etc.) of the posts included in the services and their existing rates of pay scale shall be as indicated in Annexure-I to these rules.

4. *Authority empowered to make appointment.*—All appointments to the posts in service shall be made by the Head of Department or any other authority declared as such by the Government.

5. *Nationality, eligibility and age, etc.*—(1) A candidate for appointment to any post in their service must be:—

- (a) A citizen of India, or
- (b) A subject of Sikkim, or
- (c) A subject of Nepal, or
- (d) A person of Indian origin who has migrated from Pakistan with the intention of permanently settling in India:

Provided that if he belongs to categories (c) and (d) he must be a person in whose favour a certificate of eligibility has been given by the Government of India:

Provided further that if he belongs to category (d) a certificate of eligibility will be valid only for a period of one year from the date of his appointment beyond which he can be retained in service only if he has become a citizen of India.

A candidate in whose case a certificate of eligibility is necessary may be admitted to an examination or interview and he may also provisionally be appointed subject to the necessary certificate being given to him by the Government; and

(2) Unless he is already in Government service, must produce—

- (a) A certificate of good moral character from Principal, Academic Officer of his University, College, School or the Head of his Educational or Technical Institution last attended.
- (b) Certificate of good moral character from two responsible persons, not being relatives who are well acquainted with him in a private life and un-connected with his University, College, School or other Educational or Technical Institutions.
- (c) A medical certificate, as required under rules 3 and 4 of the Fundamental and Supplementary Rules.
- (d) A declaration to the effect that he has not more than one living wife.

No person who has more than one living wife or who having a spouse living, marries in any case in which such marriage is void by reasons of its taking place during the life time of such spouse shall be eligible for appointment to service.

- (e) A certificate from the M.I.C. to the effect that he is a *bonafide* resident of Himachal Pradesh:

Provided that the Government may, if satisfied that there are special grounds for doing so, exempt any person from the operation of rules in Clause (d) above.

(3) Must not be less than 35 years and not more than 40 years of age on the date of his appointment and the conditions of retirement at the attainment of superannuation as in the case of other Government employees will not be applicable:

Provided further that the minimum and maximum age limits prescribed may be relaxed by the Himachal Pradesh Government:

Provided further that the maximum age limit will be relaxed in the case of Scheduled Castes, Scheduled Tribes Ex-servicemen and other special categories in accordance with the order issued by the Government from time to time.

6. *Educational and other qualifications.*—(a) No person shall be appointed to the service of Granthi unless he has passed the Matriculation examination of the recognised university, or its equivalent, or above, with Gurumukhi as one of the subjects in the Matriculation examination.

(b) Should be a Sikh.

(c) Should have sufficient knowledge of Guru Granth Sahib, capable of performing religious discourses and should have religious bent of mind:

Provided that any of the above conditions may be relaxed by the Government.

7. *Method of recruitment.*—The post of Granthi shall be filled either by direct recruitment, or by promotion from amongst the Sewadars (categorised as Dharamarth Class-IV Services) or by transfer of a person already in service of the Government:

Provided that in case the post is to be filled by promotion, the Sewadar should have at least 10 years experience and the conditions of educational qualifications etc., will not be applicable:

Provided further that nothing in these rules shall effect reservations and other concessions required to be provided for Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the State Government from time to time in this regard.

8. *Departmental Recruitment/Promotion Committee.*—The Departmental Recruitment/Promotion Committee shall be as may be constituted by the Government from time to time.

Offers of appointment shall be made strictly in accordance with the order in which the candidates are placed at the time of selection.

PART III—CONDITIONS OF SERVICE

9. *Probation of members of service.*—Members of the service on appointment in any post the service, shall remain on probation for a period of two years:

Provided further that a total period of probation including extension if any, shall not exceed double than the normal period of probation.

10. *Scale of pay etc. of the service.*—The grades of pay of each post in the service is mentioned in Annexure-I to these rules subject to their revision from time to time.

11. *Discipline, penalty and appeals.*—In the matters relating to discipline, punishment and appeals, member of the service shall be governed by the rules applicable to other Government employees of Himachal Pradesh Government from time to time.

12. *Seniority of member of service.*—(1) Confirmed officers of each grade shall be ranked senior to persons who are officiating in that grade subject to the condition that persons appointed in a substantive or officiating capacity to a grade prior to the issue of these rules shall retain the relative seniority already assigned to them or such seniority as he may hereafter be assigned and shall enblock be senior to all others in that grade.

(2) *Direct recruits.*—Seniority of all direct recruits shall be termed by the order of merit in which they are selected for such appointment, on the recommendations of the selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of subsequent selection:

(i) Provided that where persons recruited initially on temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority shall follow the order of confirmation and not the original order of merit:

(ii) Provided further that a person who does not join within the specified period, shall lose his seniority according to the select-list and shall rank in the seniority list next to the persons who joined earlier:

(iii) Provided further that he shall not lose his seniority if the fact of his joining later was caused by circumstances beyond his control and for the reasons recorded in writing, the appointing authority is satisfied that this was so.

(3) *Promotees.*—The relative seniority of persons promoted to the various grades shall be determined in the order of the selection for such promotion:—

(i) Provided that the persons promoted initially on a temporary basis are confirmed subsequently in an order different from the order of the merit indicated at the time of their promotion, seniority shall follow the order of confirmation and not the original order of merit.

(ii) Where promotions to a grade are made from more than one grade, the eligible persons shall be arranged in separate list in the order of their relative seniority in their respective grade. Thereafter, the Departmental Promotion Committee shall select persons for promotion from each list upto the prescribed quota and arrange all the candidates selected from different lists in a consolidated order of merit which will determine the seniority of the persons on promotion to higher grade.

(4) *Relative seniority of direct recruits and promotees.*—The relative seniority of the direct recruits and promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quotas of vacancies reserved from direct recruits and promotions respectively.

(5) *Transfers.*—The relative seniority of persons appointed by transfer in the service for other Department of State Government shall be determined in accordance with the order of their selection for such transfer.

13. *Leave and pension and cognate matters.*—In respect of leave, pension and other cognate matters not expressly provided for in these rules, the members of the service shall be governed by such rules and regulations as may have been or may hereafter be framed by the competent authority under Article 309 of the Constitution of India or any law or rules made thereunder.

Whereas the appellant Shri Rameshwar Dass has filed an appeal in this Court. In this behalf summons/notices to the abovenamed respondent No. 1, 3, 4 and 5 were issued, but they have been concealed themselves.

Now this Court has proved to the satisfaction that the abovenamed respondents cannot be served through ordinary way, hence this proclamation under order 5, rule 20 C.P.C. is issued against them that they should appear before this Court on 24-9-1974 at 10. A.M. personally or through an Advocate or an authorised agent, failing which *ex parte* proceedings shall be taken against them.

Given under my hand and the seal of the Court today the 26th day of August, 1974.

Seal.

NAND LALL THAKUR,
Collector, Nalagarh.

न्यायालय श्री नेत्र सिंह शांडिल, डिस्ट्रिक्ट जज, शिमला, किन्नौर

तथा बिलासपुर डिस्ट्रिक्ट्स, मुकाम शिमला

सर्क्येशन ऐक्ट नम्बर 5-एस/2 मन् 1974

श्री रोशन लाल चौहान पुत्र काहना सिंह उपनाम काहना राम, हाल (मोहर)

ऐसिस्टेंट इन्जीनीयर, H. P. S. E. B., रिटिज बिल्डिंग, शिमला प्रार्थी।

बनाम

आम जनता

उपरोक्त उनवानवाला में प्रार्थी श्री रोशन लाल ने इस न्यायालय में एक प्रार्थना पत्र बराये प्राप्ति सर्वेक्षण सर्टिफिकेट जेर बारा 372 इण्डियन सर्वेक्षण ऐक्ट 1925 पेश की है। अतः सर्वसाधारण (आम जनता) को सूचित किया जाता है कि जिस किसी को प्रार्थना पत्र का विरोध करना हो वह इस न्यायालय मुकाम शिमला में तिथि 17-10-74 को दिन के 10 बजे उपस्थित होकर विरोध कर सकता है उसके उपरान्त कोई उजर न सुना जावेगा।

आज तिथि 24-8-74 को मेरे हस्ताक्षर तथा मोहर न्यायालय से जारी किया गया।

नेत्र सिंह शांडिल,
डिस्ट्रिक्ट जज, शिमला।

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

GENERAL ADMINISTRATION DEPARTMENT

(C SECTION)

NOTIFICATION

Simla-2, the 22nd July, 1974

No. 11-3/73GA-C.—The orders No. 28/2/74-F(P), dated the 20th May, 1974 and No. 28/2/74-F (P), dated the 20th May, 1974, issued by the Government of India, Ministry of Information and Broadcasting, New Delhi and published in the Gazette of India, Extraordinary Part II, section 3, sub-section (ii), is hereby republished for information of the general public.

B. D. SHAUNAK,
Under Secretary.

GOVERNMENT OF INDIA

MINISTRY OF INFORMATION AND BROADCASTING

ORDERS

New Delhi-1, the 20th May, 1974.

S. O. In pursuance of the directions issued under the provision of each of the enactments specified in the First Schedule to the order of the Government of India in the Ministry of Information and Broadcasting No. S. O. 3792, dated the 2nd December, 1966, the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the films specified in column 2 of the Schedule annexed hereto in all its/their language versions to be of the description specified against it/each in column 6 of the said Schedule.

SCHEDULE

S. No.	Title of the film	Length 35	Name of the Applicant	Name of the Producer	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film
1	2	3	4	5	6
1.	I. N. R. No. 1324	224.00 metres.	Films Division, 24-Peddar Road, Bombay-26.		Film dealing with news and current events.
2.	I. N. R. No. 1325	230.00 metres.		-do-	-do-
3.	I. N. R. No. 1326	231.34 metres.		-do-	-do-
4.	I. N. R. No. 1327	213.00 metres.		-do-	-do-
5.	I. N. R. No. 1328	212.00 metres.		-do-	-do-
6.	I. N. R. No. 1329	212.00 metres.		-do-	-do-

1	2	3	4	5	6
7.	I. N. R. No. 1330	182.00 metres.	Films Division, 24 Peddar Road, Bombay-26		
8.	I. N. R. No. 1331	182.00 metres.	-do-	Film dealing with news and current event	
9.	Sasural ki Sair	230.00 metres.	-do-	-do-	
10.	A Vital Decision	194.00 metres.	-do-	Educational	
11.	The New Gift of Communication	239.00 metres.	-do-	-do-	
12.	Hand in Hand	221.00 metres.	-do-	-do-	
13.	Save a Life	323.00 metres.	-do-	-do-	
14.	Violence: What price? Who pay? (No. 2).	53.00 metres.	-do-	-do-	
15.	Poor Little Lachhi.	283.00 metres.	-do-	-do-	
16.	Lakshadweep	596.00 metres.	-do-	-do-	
17.	High Road of Adventure.	280.00 metres.	-do-	-do-	
18.	Violence: What price? Who pay? (No. 1).	38.00 metres.	-do-	-do-	
19.	Yoth Parliament	356.00 metres.	-do-	-do-	
20.	Our Striking Force.	169.00 metres.	-do-	-do-	
21.	Seeing is Believing (when dream comes true).	360.00 metres.	-do-	-do-	
22.	Who pays the price?	60.00 metres.	-do-	-do-	
23.	Violence: What price? Who pays (No. 4).	65.00 metres.	-do-	-do-	
24.	Violence: What price? Who pays (No. 5).	65.00 metres.	-do-	-do-	
25.	Saga of Shipping	457.00 metres.	-do-	-do-	
26.	Appique of Orissia.	236.00 metres.	-do-	-do-	
27.	Future of Canvas (colour).	420.00 metres.	-do-	-do-	
28.	Wanted Alive	70.00 metres.	Issar Films, 2, Mitra Milan 68 Chappel Road, Bombay-400050.		
29.	Jeevan Express (colour).	121.00 metres.	Sachida Srivastava 108/204-G, New Model House, Lucknow.		
30.	Gods Love in Action.	294.13 metres.	Shri Sainath Rao Shri Surat Kumar Productions, C-20 First Floor Royal Optical Ind Estate Wadalo Bombay-31.		
31.	Holy City of Kashi.	396.24 metres.	Shri Niranjana Sen Shri A. Roy National Art films Road, No. 2, Rajendra Nagar Patna-16.		
32.	Story of Chocolate.	277.50 metres.	Film Modjan, 47 Lakshmi Insurance Building Sir P. M. Road, Bombay.		
33.	The Undefeated	275.85 metres.	Shri Dulal Saikia Cinegraph Associates Md Taibulla Road, Gauhati-1.		

1	2	3	4	5	6
34.	New Horizon	272.27	Rodio Advertising	Services Ceil Court Lansdowne Road, Bombay-1.	Educational
35.	Stop: Look and Listen (colour).	73.15 metres.	Shri Gopal Mahares	Shri Sohrab Bog Nishan Motion Pictures Vasant-Vihar 8 Camichal Road, Bombay-26.	-do-
36.	Ek Yatra	166.41 metres.	M/s U. K. Films, Juhu, Bombay.	140-North Society	-do-

[F. No. 28/2/74-F(P)App.1896].

New Delhi-1, the 20th May, 1974

S. O. In pursuance of the directions issued under the provision of each of the enactments specified in the First Schedule to the order of the Government of India in the Ministry of Information and Broadcasting No. S. O. 3792, dated the 2nd December, 1966, the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the films specified in column 2 of the Schedule annexed hereto in all its/their language versions to be of the description specified against it/each in column 6 of the said Schedule.

SCHEDULE

Sl. No.	Title of the Film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film
1	2	3	4	5	6
1.	INR No. 1327 (Northern Edition).	303.00 metres.	Films Division Government of India, 24-Peddar Road, Bombay-26.		Film dealing with news & current events. (For release in Northern States viz. Haryana, J&K, Madhya Pradesh, Punjab, Rajasthan, U.P., Andaman & Nicobar Islands Dadra and Nagar Haveli/Delhi Administration, Himachal & Pondicherry).
2.	INR No. 1331 (Northern Edition).	269.00 metres.	-do-	-do-	-do-

[F. No. 28/2/74-F(P) App. 1891].

K. P. K. NAYAR,
Under Secretary.

भारत सरकार

सूचना और प्रसारण मंत्रालय

आदेश

नई दिल्ली-1, 20 मई, 1974

एस0 ओ0 भारत सरकार के सूचना और प्रसारण मंत्रालय के आदेश संख्या एस0 ओ0 3792, दिनांक 2 दिसम्बर, 1966 की प्रथम अनुसूची में निर्धारित प्रत्येक अधिनियम के उपबन्ध के अन्तर्गत जारी किए गए निदेशों के अनुसार, केन्द्रीय सरकार, फिल्म मन्त्रालय बोर्ड, की सिफारिशों पर विचार करने के बाद एतद्वारा, इसके साथ लगी अनुसूची के कालम 2 में दी गई फिल्मों को उनके सभी भारतीय भाषाओं के रूपान्तरों सहित, जिनका विवरण प्रत्येक के सामने उक्त सूची के कालम 6 में दिया हुआ है, स्वीकृत करती है।

अनुसूची

क्रम संख्या	फिल्म का नाम	लम्बाई 35 मि०मी०	आवेदक का नाम	निर्माता का नाम	क्या वैज्ञानिक फिल्म है या शिक्षा सम्बन्धी फिल्म है या समाचार और सामयिक घटनाओं की फिल्म या डाकुमेंट्री फिल्म है
1	2	3	4	5	6
1.	भारतीय समाचार समीक्षा संख्या 1324	224-00 मीटर ।	फिल्म प्रभाग, भारत सरकार,	समाचार और सामयिक घटनाओं की फिल्म	
			24-पैडर रोड, बम्बई-26 ।		
2.	भारतीय समाचार समीक्षा संख्या 1325	230-00 मीटर ।	"	"	"
3.	भारतीय समाचार समीक्षा संख्या 1326 ।	231-34 मीटर ।	"	"	"
4.	भारतीय समाचार समीक्षा संख्या 1327 ।	213-00 मीटर ।	"	"	"
5.	भारतीय समाचार समीक्षा संख्या 1328 ।	212-00 मीटर	"	"	"
6.	भारतीय समाचार समीक्षा संख्या 1329 ।	212-00 मीटर ।	"	"	"
7.	भारतीय समाचार समीक्षा संख्या 1330 ।	182-00 मीटर ।	"	"	"
8.	भारतीय समाचार समीक्षा संख्या 1331 ।	182-00 मीटर ।	"	"	"
9.	ससुराल की सैर	230-00 मीटर ।	"	"	शिक्षा सम्बन्धी
10.	महत्वपूर्ण फैसला	194-00 मीटर ।	"	"	"
11.	नये संचार साधन	319-00 मीटर ।	"	"	"
12.	सब मिलकर	221-00 मीटर ।	"	"	"
13.	जीवन की पुकार	323-00 मीटर ।	"	"	"
14.	हिंसा की कीमत कौन चुकाता है (नं० 2) ।	53-00 मीटर ।	"	"	"
15.	बेचारी लच्छी (रंगीन)	283-00 मीटर ।	"	"	"
16.	लक्ष द्वीप (रंगीन)	596-00 मीटर ।	"	"	"

1	2	3	4	5	6
17.	माहसी पंथ	280-00 मीटर ।	फिल्म प्रभाग, भारत सरकार, 24-पेंडर रोड, बम्बई-26।		शिक्षा सम्बन्धी
18.	हिंसा की कीमत कौन चुकाता है (नं० 1) ।	38-00 मीटर ।	"		"
19.	यूथ पालियामेंट	356-00 मीटर ।	"		"
20.	हमारी आक्रमण शक्ति ।	169-00 मीटर ।	"		"
21.	मीई ग इज बिलीविंग	360-00 मीटर ।	"		"
22.	इ पैज दी प्राईस	60-00 मीटर ।	"		"
23.	हिंसा की कीमत कौन अदा करता है (नं० 4) ।	48-00 मीटर ।	"		"
24.	हिंसा की कीमत कौन अदा करता है (नं० 5) ।	65.00 मीटर ।	"		"
25.	नौ परिवहन का इतिहास ।	457-00 मीटर ।	"		"
26.	अप्लीव्यू आफ उडीसा (रंगीन) ।	236-91 मीटर ।	"		"
27.	कल के चित्रकार (रंगीन) ।	420-00 मीटर ।	"		"
28.	वांटेड अलाईव	70-00 मीटर ।	इसरै फिल्मस-2, मित्रामिलन 68-चूपले रोड, बम्बई-400050 ।		"
29.	जीवन एक्सप्रेर (रंगीन) ।	121-00 मीटर ।	सचिदा श्रीवास्तव, 108/ 204 जी, न्यू माडल हाऊस, लखनऊ ।		"
30.	गोडस लव इन एक्शन	294-13 मीटर ।	श्री साईंनाथ, श्री सेरत कुमार डाकुमैन्ट्री राव प्रोड- शन, सी-20 फ़स्ट फ़्लोर, रायल आर्टीकल इन्डिपेंडेंट एस्टेट, बडाला, बम्बई-31।		डाकुमैन्ट्री
31.	होली सिटी आफ काशी	396-24 मीटर ।	श्री निरंजन सैन, श्री ए राय नेशनल आर्ट फिल्मस रोड नं० 2, राजेन्द्र नगर, पटना-16 ।		शिक्षा सम्बन्धी
32.	स्टोरी आफ चाकलेट (रंगीन) ।	277-50 मीटर ।	फिल्म मीडिया, 47-लक्ष्मी इशोरैस विलडिंग सर पी० एम० रोड, बम्बई-40000 ।		"
33.	दि अनडिफिटेड	275-85 मीटर ।	श्री दुलाल साईवकया, सिने- ग्राफ. एसोसिएट्स, मोहम्मद ताइबुल्ला रोड, गोहाटी 1 ।		"
34.	न्यू होराइजन (रंगीन)	271-27 मीटर ।	रेडियो एडवर्टाईजिंग, सरविस सीसल कोर्ट लानसडाउन रोड, बम्बई-1 ।		"

1	2	3	4	5	6
35.	स्टाय: लुक एंड लिस्त (रंगीन)	73.15 मीटर	श्री गोपाल, महर्षि वीरान, श्री ब्रह्मराव बांगरा	शिक्षा सम्बन्धी	
36.	एक यात्रा	166.41 मीटर	मशीन पिकचर्ज वसंतविहार-8, कारमोचेल, बम्बई-26		
			मैसर्स यू० के० फिल्मस 140		
			नीर्य वीच बम्बई सोमाईटी		
			जूहू, बम्बई		

[फाइल संख्या 28/2/74-एफ०पी० परिशिष्ट-1896]

नई दिल्ली-1, तारीख 20 मई, 1974

एस० ओ० भारत सरकार के सूचना और प्रसारण मंत्रालय के आदेश संख्या एस० ओ० 3792, तारीख 2 दिसम्बर, 1966 की प्रथम अनुसूची में निर्धारित प्रत्येक अधिनियमों के उपबन्ध के अन्तर्गत जारी किये गए निर्देशों के अनुसार, केन्द्रीय सरकार फिल्म, सलाहकार बोर्ड बम्बई की सिफारिशों पर विचार करने के बाद एतद्वारा इसके साथ लगी अनुसूची के कालम 2 में दी गई फिल्मों को उनके सभी भारतीय भाषाओं के रूपान्तरों सहित जिनका विवरण उनके सामने उक्त सूची के कालम 6 में दिया हुआ है, स्वीकृत करती है।

अनुसूची

क्रम संख्या	फिल्म का नाम	लम्बाई	आवेदक का नाम	निर्माता का नाम	क्या वैज्ञानिक फिल्म है या शिक्षा सम्बन्धी फिल्म है या समाचार और सामयिक घटनाओं की फिल्म है या डाकुमेन्ट्री फिल्म है
35	मि० 0	मी०	नाम	नाम	
3			4	5	6

1. भारतीय समाचार समीक्षा संख्या 1327 (उत्तरी संस्करण) 303-00 फिल्म प्रभाग, भारत सरकार, 24-पैडर रोड, बम्बई-26।

समाचार और सामयिक घटनाओं की फिल्म (केवल उत्तरी प्रदेशों हरियाणा, जम्मू काश्मीर, मध्य-प्रदेश, पंजाब, राजस्थान, उत्तर-प्रदेश, अंडमान और निकोबार टापू, दादर और नगर हवेली, प्रशासन, दिल्ली प्रशासन, पांडेचरी, और हिमाचल प्रदेश में प्रदर्शन के लिए

भारतीय समाचार समीक्षा संख्या 269-00 1331। मीटर।

[फा० संख्या 28/2/74 परिशिष्ट 1811]

के० पी० के० नायर, अवर सचिव, भारत सरकार।

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं.

ELECTION DEPARTMENT

NOTIFICATION

Simla-2, the 24th July, 1974

No. 3-17/73-Elec.—The Election Commission of India's notification No. 82/HP/11/72, dated the 17th June, 1974, containing the judgment of the High Court of Himachal Pradesh in Election Petition No. 11 of 1972 is hereby published for general information.

By order,
L. TOCHHAWNG,
Chief Electoral Officer,
Himachal Pradesh.

ELECTION COMMISSION OF INDIA

NOTIFICATION

*Nirvachan Sadan,
Ashoka Road,
New Delhi-1,
17th June, 1974*

the 27th Jyaisitha, 1896(Saka)

No. 82/HP/11/72.—In pursuance of section 106 of Representation of the People Act, 1951, the Election Commission hereby publishes the judgment dated the 20th November, 1973, of the High Court of Himachal Pradesh in Election Petition No. 11 of 1972.

IN THE HIGH COURT OF HIMACHAL PRADESH SIMLA-1

Election Petition No. 11 of 1972.

Date of Decision 20-11-1973

Shti Daulat Ram Sankhyan son of Shri Lakhu Ram, resident of village Panjaintan, Tehsil Sadar, Bilaspur (Himachal Pradesh) through Shri Chhabil Dass, Advocate and Shri D. P. Suck Advocate.

Versus

Sri Kuldip Singh son of Shri Man Singh, resident of village Bharoli, Post Office Bharoli, Tehsil Ghumarwin, District Bilaspur (Himachal Pradesh) through Shri S. Malhotra and H. K. Bhardwaj, Advocate.

For approval and signature.

The Hon'ble Mr. Justice D. B. Lal, J.

The Hon'ble Mr. Justice.

1. Whether approved for reporting? Yes.

2. Whether there are remarks about the quality of the judgment of the Court of Officer?

D. B. LAL, J.

Sri Daulat Ram Sankhyan, erstwhile Deputy Minister Agriculture, Himachal Pradesh, having lost in the Assembly election of 1972 from Kot Kehloor constituency has filed this election petition under section 81 to 83 of the Representation of the People Act, 1951 (hereinafter to be referred as the Act) for setting aside the election of the respondent Shri Kuldip Singh who has been declared elected from this constituency. The allegations made in the petition may now be briefly stated.

A notification calling upon the voters of the constituency No. 20 namely, Kot Kehloor in the District of Bilaspur was made on 31st January, 1972 to return a candidate to the Legislative Assembly of Himachal Pradesh. The dates for filing the nomination papers were between 1st to 8th February, 1972. The scrutiny

was held on 9th February, 1972 and withdrawal of candidatures was allowed up to 11th of February, 1972. The polling in the constituency was held on 5th of March, 1972. Thereafter the counting took place on 11th of March, 1972 and the results were declared. There were six candidates who had contested the election and amongst them Kuldip Singh, respondent who belongs to Congress, polled the highest number of votes. He defeated his closest rival Daulat Ram Sankhyan by 695 votes. According to the petitioner, the election of the respondent Kuldip Singh is void on a variety of grounds. He submitted that Kuldip Singh was not qualified or was disqualified, to be chosen to fill the seat, under the Constitution of India and under the provisions of the Act, inasmuch as, there subsisted two contracts entered into by him in the course of this trade or business with the State of Himachal Pradesh for the execution of works which he described as a contract in partnership with one Rikhi Ram for clearance of dry cheel forest in Jhola Forest Division and a contract of construction work which he described as "a building in open Jail at Bilaspur". As regards the first contract, the allegation was that he had applied for transfer of his interest in such contract in favour of his son Pardeep Singh which transfer was not validly effected inasmuch as Pardeep Singh is only 22 years of age and he is a student. He had no funds of his own nor any ostensible source of income. As such the real interest was of the respondent himself. According to the petitioner the respondent constitutes a joint Hindu family with Pardeep Singh. As the second contract it was averred, that a dispute existed regarding wages payable to the labour employed on the works. The security deposited by Kuldip Singh was not refunded as the labourers have not been paid as yet. In this manner the two contracts were stated to be subsisting and as such the respondent, according to the petitioner, was not qualified to stand in the election.

The petitioner contended that one Hari Singh, Vice-President of Bhakra Panchayat along with 13 or 14 others was accused of criminally removing the goods of a dispensary situate in village Saloha. A police case regarding that offence was pending in the Court of the Magistrate First Class, Bilaspur. On the night between 17th and 18th February, 1972 Dr. Y. S. Parmar the Chief Minister of Himachal Pradesh came and stayed at the Circuit House of Bilaspur. Hari Singh was called to meet the Chief Minister at that time. Shri Kuldip Singh complained that Hari Singh was not working in favour of the Congress and the latter was asked by Dr. Parmar that he would make an order for withdrawal of the police case against him. Hari Singh further wanted the dispensary at Saloha to be shifted to his village Makri. The order for the shifting of the dispensary was made on the very next day. The prosecution case was withdrawn on a day subsequent to the election. In this manner, according to the petitioner, Hari Singh, was bribed by the Chief Minister who as an agent of Kuldip Singh in furtherance of the election prospects of the respondent.

According to the petitioner construction work was going on within this constituency for Thach-Chokoh-Sakroha Road and several mates and labourers including Devi Ram, Tulsi Ram, Dhani Ram etc. were working on such road. These mates were removed from their service so that pressure could be exerted upon them to help the respondent. Randhir Singh who is a nephew of the respondent, according to the petitioner, called a meeting

on 29th February, 1972 at the house of Tulsi Ram of Chakoh. With the help of Paras Ram Tehsildar these mates were re-employed on the construction of that road. One Kirshnool Ram was employed as Supervisor instead of Kala Ram who worked as Polling Agent at Saloha for the respondent. This was again an act of bribery committed by the agent of the respondent. In the meeting which took place on 29th February, 1972 at the house of Tulsi Ram of Chakoh Bardu Ram and Kirpa Ram were induced to canvass for the respondent and they also voted for him. In lieu thereof, their services were assured as mates. Kirpa Ram also became Polling Agent of the Respondent.

The petitioner also alleged specific acts of undue influence on the part of the respondent or his agent inasmuch as, he submitted that Dr. Y. S. Parmar the Chief Minister came to Bilaspur on 18th February, 1972 and addressed two meetings one at Chakoh at 10 A.M. and the other at Namhol at 2 P.M. In these meetings the Chief Minister stated that the treasury was under his control as he possessed the keys of such treasury and he would advance funds for the development of the constituency only in case Kuldeep Singh was voted and returned as a successful candidate. These speeches had influenced the voters and in this manner the respondent is guilty of corrupt practice of undue influence.

Yet another incident of undue influence was pleaded by the petitioner with reference to one Uma Datt, President of Gram Panchayat Swahan. It is stated that Uma Datt was available at Charol where he had gone to attend a Barat. He was brought from there by Kuldeep Singh, and he was produced before the Chief Minister at the Circuit House of Bilaspur late in the night between 17th and 18th February, 1972. Kuldeep Singh complained that Uma Datt was not working for the Congress and the Chief Minister, who according to the petitioner was the agent of the respondent, extended a threat to Uma Datt, that his son was in government service would be transferred to a remoter area in case Uma Datt did not support the Congress candidate. However, according to the petitioner Uma Datt boldly refused to agree to support the Congress candidate.

According to the petitioner, the respondent obtained or procured assistance in furtherance of his election prospects from persons who were gazetted officers in the service of the government. Shrimati Indira Gandhi, Prime Minister of India addressed a meeting at Bilaspur on 22nd February, 1972 and for that meeting the entire arrangement was made by the District Authorities including the Chief Engineer of the Public Works Department. For the convenience of the Prime Minister a helipad was constructed at a considerable cost. The officers of the Public Relations Department installed the loudspeakers. They held tours in that connection between the dates 18th to 21st February, 1972. One Chhattar Singh, Deputy Director, Public Relations even announced from the stage the arrival of the Prime Minister. The Chief Minister introduced the respondent along with other Congress candidates to the Prime Minister. The respondent occupied the same stage from where the speech was delivered by the Prime Minister. According to the petitioner, people were carried in trucks to attend that meeting. The district authorities arranged these trucks. All this was done with the consent of the respondent and even the Prime Minister could be considered to be an agent of the respondent. In this manner the respondent procured assistance from the gazetted officers and members of the Police force. He was guilty of

corrupt practice and as such his election is liable to be set aside.

The petitioner produced two pamphlets. (Ex-P. 2 and Ex-P. 3) one purported to be published by Hiru Ram, Kamla Devi, Rattan Singh, and Dharamu (Ex-P. 2) and the other published by Raja Anand Chand of Bilaspur Ex-Member of Parliament (Ex-P. 3). The first pamphlet contained defamatory statements concerning the petitioner. The allegations not only related to his personal character or conduct but affect his prospects in the elections. According to the petitioner his prospects in the election were highly prejudiced. In the pamphlet Ex-P. 2 a certain letter dated 6th July, 1971 was reproduced stated to be issued by the Chief Minister to the Petitioner. This letter, according to the petitioner, was never issued and as such the statements concerning this letter were false to the knowledge of the respondent. The Chief Minister purported to write in this letter that the petitioner had taken an industrial loan of Rs. 24,000 in partnership with his brother Naruia Mal which he had not paid back. Besides that loan, the letter further recited that the petitioner managed for his friends and relations several loans for soil conservation and for horticultural purposes. It was also mentioned in the letter that the petitioner was dismissed from the post of Deputy Minister because of undesirable activities. It was stated that Russian tractors were sanctioned by the petitioner in favour of his own son while he was holding the office of Deputy Minister. Similarly the petitioner himself sanctioned loans in favour of his wife and other close relations. The pamphlet further recited that the petitioner had transferred his own son to Chopal to look after his land which he purchased at Chopal. According to the petitioner, all these allegations were false, to the knowledge of the respondent. The result of the election was materially affected because of this pamphlet.

The other pamphlet (Ex-P. 3) was purported to be issued by Raja Anand Chand. It was an appeal to the voters to support the respondent in the election. This appeal was again a false document because the Raja never issued it. According to the petitioner, the Raja commanded influence in the constituency and his election prospects were highly prejudiced and the result of the election was materially affected.

The petitioner also contended that in respect of these two pamphlets the provisions contained in section 123-A of the Act were not complied. In this manner there was a non-compliance with the provisions of the Act and that would be an additional ground for declaring the election void.

On the 10th February, 1972 a news bulletin was issued by the Simla Station of the All India Radio, in the news item known as Pradeshik Samachar (Local News) Broadcast at 7.15 P.M. In this bulletin it was mentioned that the Governor had dismissed the petitioner from the post of Deputy Minister. It was also stated that the Chief Minister made his recommendation for dismissal because of charges of undue favour said to be shown by the petitioner to his relations while holding the office of the Deputy Minister. It was recited that the petitioner had acted arbitrarily. All these were false statements to the knowledge of the respondent. All the persons actually broadcasting were his agents. The true fact was that the petitioner had only resigned from his post of Deputy Minister because he could not see eye to eye with the Chief Minister. Instead of saying so the aforesaid false news bulletin was published as a broadcast

of All India Radio. This was again a corrupt practice committed by the respondent or his agent for which he could be held responsible. Subsequently, the news item was caught up by the Urdu Daily Pratap and on 11th February, 1972 the said information was repeated under a news item. This had further aggravated the situation against the petitioner.

In the last, the petitioner contended that the respondent far exceeded the expenditure, than was shown by him in the account submitted under section 77 of the Act. That was again a corrupt practice for which the election could be declared void. The petitioner pointed out definite sums of money which were paid to Ganpat, Krishnoo, Prama Nana, Badda, Dittu, Sukh Ram, Joti, Gokal and Devi Ram. All these amounts were paid for distribution of the pamphlets Ex-P.2 and Ex-P.3 and for other election work. Similarly the petitioner contended that a station wagon, a jeep and a car of Himachal Pradesh Transport were engaged by the respondent at an expense of Rs. 3,000 at least. This amount was also not shown in the account. On 18 February, 1972 after the Chief Minister had addressed the election meeting at Namhol he was entertained at a lunch given by the respondent for which he spent Rs. 150. This amount too was not shown in the account submitted by the respondent. After all these amounts are taken care of the total expenditure would exceed the prescribed limit and that would be a corrupt practice within the meaning of the Act.

On these grounds the petitioner submitted that the election of the respondent be declared void and the respondent be held to have committed practice within the meaning of section 123 of the Act and be debarred from contesting the election for a period of six years.

The defence of the respondent Kuldip Singh is one of total denial. It is averred on his behalf that he was fully qualified to stand in the election. The Jhola Forest contract was in fact transferred by him in favour of his son Pradeep Singh. This he did long before he submitted his nomination paper. He ceased to have any interest in that contract. It was denied that Pradeep Singh constituted joint Hindu family with him or that he was not possessed of sufficient funds of his own. In short, according to the respondent, the contract was not subsisting and as such he was not disqualified. As to the other contract for the construction work; it is stated that the construction of the building in Open Air Jail at Bilaspur was completed in 1967. That contract no longer subsisted on a relevant date. At any rate section 9A of the Act was either not attracted or if at all attracted it would help the respondent; because he had fully performed his part of the contract, much before the relevant date and hence no disqualification should be sustained against him. The respondent further pleaded that the contract concerning the Open Air Jail at Bilaspur was not legally executed. Similarly the Jhola Forest contract was also executed against the provisions of Articles 299 of the Constitution.

As to the corrupt practices relating to Hari Singh, and Uma Datt, the respondent denied that these two persons at all visited the Chief Minister on the night between 17th and 18th February, 1972. No such talk took place between the Chief Minister and these two persons. It was also denied that the Chief Minister promised withdrawal of the prosecution case against Hari Singh and others. That case was withdrawn as a result of some independent judicial decision made by the Magistrate himself. The

dispensary was never shifted to village Makri and entire allegation therefore is wrong. Similarly the respondent denied that Devi Ram or others who were mates employed on Thack-Chokoh-Sakroha road were at all removed from service or were re-employed in the manner stated by the petitioner. No part was played by Paras Ram, Tehsildar in that connection. Similarly Randhir Singh never held any meeting nor promised re-employment to these mates:

As to the two meetings addressed by Dr. Y. S. Parmar at Chokoh and Namhol respondent admitted that such meetings were held and were also addressed by the Chief Minister. According to him the Chief Minister only stated that the Congress Party had done good work in the constituency and that they should vote for the Congress candidate. He never uttered about the keys of the treasury nor did he state that no development work would be done in the constituency unless the respondent was voted. The entire allegation in this regard, as made by the petitioner, is incorrect.

The respondent affirmed that Shrimati Indira Gandhi did visit Bilaspur on 22nd February, 1972. She addressed a public meeting at Bilaspur. According to the respondent that meeting was organised by the All India Congress Party. In fact Bilaspur town fell outside the constituency of the respondent. The officials present in such meeting were performing their public duties. There were security arrangements for the Prime Minister. In fact she addressed the meeting as the Prime Minister of India. It was denied that any arrangements were made by the gazetted officers in furtherance of the election prospects of the respondent. It was also denied that any trucks were deployed by the district authorities for bringing people to hear that speech of Prime Minister.

As to the two pamphlets Ex. P. 2. and P. 3. the respondent showed ignorance that these were at all distributed within his constituency. He further denied that he got them published or any of his agents got them printed or published in furtherance of his election prospects. He was not aware if the Congress Party had approached Raja Anand Chand for issuance of the appeal in favour of the Congress candidates. At any rate the respondent was not responsible for the two pamphlets. It is averred by the respondent that the allegations made in the pamphlet Ex. P. 2 were substantially true and hence it should not be said that the allegations made therein were false to the knowledge of the respondent. At any rate the respondent disowned his responsibility for that pamphlet. The respondent further contended that Raja Anand Chand no longer commanded any influence in the constituency. He had left Bilaspur and is residing elsewhere for the last 14 or 15 years. As such he has ceased any contact with the people residing in the constituency. Therefore, said the respondent, the appeal of the Raja had absolutely no influence on the voters. At any rate there is no ground, to hold that the election prospects were materially affected in favour of the respondent because of these pamphlets.

The respondent submitted that the news bulletin of 10 February, 1972 which was broadcast in the air might have been the result of a communication received from the government. The respondent was no longer responsible for the news item. Regarding the expenditure incurred, the respondent denied that any money was distributed by him to the persons named by the petitioner. Similarly he did not engage the station wagon or the jeep or the car, nor did he spend Rs. 3,000 for these vehicles. He had not entertained the Chief Minister at a lunch on

18th February, 1972 after he addressed the election meeting at Namohl, in fact Tulsī Ram. Pradhan of Namhol Panchayat had met the expenditure of that lunch.

The respondent not only denied his knowledge for all these alleged corrupt practices but also stated that firstly all these acts of corrupt practices were not committed by any one and secondly if at all any such act could be stated to have been committed, the same was not done with his consent nor by any one who could be considered his agent. Similarly it could not be stated that the results of the election were materially affected because of any such alleged act of corrupt practice. The respondent, therefore, submitted that election petition deserved to be dismissed with costs to him.

Upon the pleadings of the parties the following issues were framed for decision:—

Issue No. 1: Whether full particulars of any corrupt practice that the petitioner alleges have not been reproduced in the petition, as provided in section 83 (1) of the Representation of the People Act, 1951, If so, its effect?

Issue No. 2: Whether the election petition does not contain a concise statement of the material facts on which the election petition relies, as provided in section 83 (1) (a) of the Representation of the People Act, 1951. If so, its effect?

Issue No. 3: Whether the affidavit submitted along with the petition is not in the prescribed form and is defective. If so, its effect?

Issue No. 4: Whether the annexures supplied with the petition have been signed and verified as provided in section 83 (2) of the Representation of the People Act, 1951. If not, its effect?

Issue No. 5: Whether the copies served upon the respondent are not true copies as alleged. If so, its effect?

Issue No. 6: Whether the amount of security has been deposited in the manner required by section 117 of the Representation of the People Act, 1951 read with Rule 23 of the rules of this Court. If not, is the petition liable to rejection under section 86 of the Representation of the People Act, 1951?

Issue No. 7: Whether a contract as alleged in para 4 A (i) and (ii) entered into by the respondent in the course of a trade or business with the Government for the supply of goods to or for the execution of any work undertaken by the Government, subsisted, and as such the respondent is deemed disqualified from being chosen as a member of the Legislative Assembly of Himachal Pradesh.

Issue No. 8: Whether any or all alleged corrupt practices contained in para 5 of the petition were committed by the respondent or his agent or by another person with the consent of respondent within the meaning of section 123 of the Representation of the People Act, 1951. If so, its effect?

Issue No. 9: Whether any corrupt practice was committed in the interest of the respondent by his agent other than his election agent, and whether any non-compliance has been made with the provisions of the Constitution or of the Representation of the People Act, 1951 or of any rules

or orders made thereunder, as alleged in para 6 of the petition. If so, has the result of the election in so far as it concerns the respondent, has been materially affected?

Issue No. 10: To what relief, if any, is the petitioner entitled?

FINDINGS

Issue Nos. 1-6: These issues being preliminary have already been decided.

Issue No. 7: The petitioner has contended that a forest contract namely the Jhola contract which was for the cutting of dry cheel trees, subsisted between the respondent and the State Government. As such according to the petitioner, the respondent was disqualified so long as this contract subsisted from standing in the election.

In reply the respondent submitted that a contract of like nature was no doubt entered into by him with the State Government but he had moved an application to the authorities that he would no longer have any interest in the contract. He requested for transfer of his interest in favour of his son Pradeep Singh. The department accepted the request of the respondent. A new contract was brought into existence between Pradeep Singh and the State Government. In this manner long before the submission of his nomination paper, the respondent ceased to have any interest in the contract. It is further submitted by the respondent that the contract was not even complete within the meaning of Articles 299 of the Constitution. The petitioner submitted by way of rejoinder that the contract was transferred benami in the name of Pradeep Singh who formed a joint Hindu family with the respondent.

The petitioner filed a copy of admission form (Ex- P. 6) which indicated that Pradeep Singh was borne on June, 2, 1951. The contract itself was entered into on 2-12-1971 between the respondent along with Rikhi Ram on one side and the State Government on the other side. The lease of the contract is dated 2-12-1971 (Ex-P. 28/A). On 5-2-1972 as a result to the petitioner submitted by the respondent the Divisional Forest Officer recommended (Ex-P. 28/B) for transfer of the contract in the name of Pradeep Singh Rikhi Ram. The consent of Pradeep Singh (Ex-P. 28/C) was obtained for such transfer. The order of transfer was actually made by the Conservator of Forests on 5-2-1972 (Ex-P. 28/E). A new lease deed was executed by Pradeep Singh Rikhi Ram on 5-2-1972 (Ex-D. 4). It is therefore abundantly clear that on the date of execution of the lease deed that is on 5-2-1972 Pradeep Singh had attained the age of majority. It is true that he was son of the respondent by that alone would not justify an inference that he could not undertake independent business. The respondent for this obvious reason that he was contesting the election, transferred his entire interest in favour of Pradeep Singh and there was no legal bar for him to do so. The respondent filed a gift deed executed by his father in favour of Pradeep Singh in the year 1955 (Ex. D. 26). This gift deed comprised the land for which the jamabandi is Exhibit D. 27. It is therefore, clear that Pradeep Singh possessed his own funds and he could very well execute the work.

The technical objection submitted by the respondent that the contract did not satisfy the requirement of Articles 299 of the Constitution cannot be sustained. It is manifest, both parties acted in the belief that a valid contract was brought into existence. The State

Government itself stood to gain under the contract. It cannot be stated that the contract was void or that it could not be retified subsequently by the Government. The technical difficulty pointed out by the respondent is that no one had signed the contract on behalf of the Government on 2-12-1971 (Ex-P. 28/A). This by itself would be of no avail. In this connection the petitioners can rely on the observations of their Lordship in *C. Vithaldas Jasani vs. Moreshwar Prashram* (A.I.R. 1954, S.C. 236). That was a case before the Supreme Court under the provisions of the Representation of the People Act, 1951 and a plea was set up relating to Article 299 which according to the respondent made the contract unenforceable. Their Lordships did not uphold the plea and held that the contract nonetheless subsisted and the technical defect did not render it void for the election purposes.

Jeet Ram (P.W. 10) is the Head Clerk in the Government College, Bilaspur. He proved that by no means Pradeep Singh was a regular student, the inference drawn was that he could very well attend to his contract business while he was a student of B.A. Part II. Both Roshan Lal (P.W. 11) and Bhanu Datt Sharma (P.W. 28) belonging to the Forest Department came to prove the transfer of the contract (Ex-P. 7) made in favour of Pradeep Singh Sankhyani (P.W. 37) no doubt stated that both Pradeep Singh and the respondent formed a joint family. At one stage he stated that their accounts are joint but at the same time affirmed that he had never seen any of such joint account. He does not know in what name and style they kept their bank account. In his enthusiasm he stated that he visited the Jhola jungle and found Kuldip Singh working therein. The statement itself appears to be fantastic because the actual cutting work of the trees could not have been done by Kuldip Singh. At the same time he admitted that he saw Kuldip Singh, working inside the Jhola jungle only in December, 1971 and not on any subsequent day. This statement proves that the case of the respondent that the contract was transferred in favour of Pradeep Singh in the beginning of February, 1972. As against this oral evidence the respondent Kuldip Singh categorically stated that he had nothing to do with the contract after 5 February, 1972. He never went inside the jungle to do any work in connection with the contract. He stated that his son does live jointly with him but he is quite a major and also attends to his contract work independently. His grand father had given some property and as such he is possessed of sufficient funds. The income derived from such property by Pradeep Singh is to the tune of Rs. 1,200 or 1,400 per annum.

With this evidence on the record it is not difficult to hold that the Jhola contract pleaded by the petitioner never subsisted on the date the nomination paper was submitted by Kuldip Singh or when he was declared to be a candidate for election. In fact after 5-2-1972 Kuldip Singh had no connection with this contract. He cannot be held to be disqualified on this account.

It is then also alleged in the petition that the respondent had entered into a contract in the course of his trade or business with the State Government for the execution of a work which he described as a "building in the Open Air Jail at Bilaspur". It is stated that a dispute regarding fair wages existed in respect of this contract. The fair wages were not paid by the contractor and as such the security was not refunded. In this manner the argument is founded by saying that the building contract had subsisted even on the date of the filing of the nomination and much afterwards. According to the

petitioner, the respondent was disqualified to stand in the election. From the side of the respondent there is no denial of any such contract which might have subsisted between him and the State Government. According to that respondent, no labour dispute existed for the contract pleaded. The construction of a building in the open air Jail at Bilaspur was completed in June, 1967 long before the filing of the nomination paper.

It has been revealed as a result to evidence submitted by the respective parties, that two work contracts were entrusted to the respondent, (i) construction of Electrical staff quarters at Bilaspur and (2) residential quarters, open air jail, Bilaspur. There was no labour dispute for the latter contract and, therefore, submitted the respondent, the petitioner has not even pleaded about the electrical staff quarters at Bilaspur, for which alone the labour dispute existed. In this manner there was a variance between the pleadings and the proof and it is contended on behalf of the respondent that the petitioner should not be permitted to plead or adduce evidence in respect of the electrical staff quarters contract. The question therefore arose as to whether the evidence of the petitioner could be shut out in respect of the electrical staff quarters contract. Since the days of Privy Council the practice had been deprecated and it was held that it would introduce the greatest amount of uncertainty into judicial proceedings if the final determination of causes is to be founded on inferences at variance with the case that the plaintiff had pleaded and by joining issues in the case which the plaintiff had not undertaken to prove. (*See Haji Umar Abdul Rahiman vs. Gustadiji Mucherji Cooper*, A.I.R. 1915 P.C. 89). But in applying such a principle the whole of the circumstances must be taken into account and carefully scrutinised. According to the Privy Council the question is in ultimate analysis one of circumstance, and not of Law. Therefore, the plea set up by the respondent has to be judged with respect to the circumstances made out and the bare proposition that proof should not be at variance with the pleadings, in its abstract form, can be of no avail. In *Chandan Lal Jaura vs. Amin Chand Mohan Lal* (A.I.R. 1960 Pun. 500) emphasis was laid on the element of surprise or prejudice which may or may not be caused, due to the absence of a specific pleading. The rule embodied is not only a rule of logic but one of fair play. The basis of the rule is that a party should not be taken by surprise by the change of the case introduced by the opposite party. In other words, if it can be found that the element of surprise or suspicious was not there and as a result thereto prejudice is not to be inferred from the circumstances made out, the plea shall not prevail. The Supreme Court has further elucidated this point in *Bhagwati Prasad vs. Chandramaul* (A.I.R. 1966 S.C. 735). I cannot do well that quoting the observations of their Lordships:—

"If a plea is not specifically made and yet it is covered by an issue by implication and the parties knew that the said plea was involved in the trial, then the mere fact that the plea was not expressly taken in the pleadings would not necessarily disentitle a party from relying upon it if it is satisfactorily proved by evidence. The general rule no doubt is that the relief should be founded on pleas made by the parties. But there the substantial matter relating to the title of both parties to the suit are touches, though indirectly or even obscurely, the issue and evidence has been led about them then the argument that a particular matter was not expressly taken in the pleadings would be purely formal and

technical and cannot succeed in every case. What the court has to consider in dealing with such an objection is did the parties know that the matter in question was involved in the trial, and did they lead evidence about it? If it appears that the parties did not know that the matter was in issue at the trial and one of them has had no opportunity lead evidence in respect of it, that undoubtedly would be a different matter. To allow one party to rely upon a matter in respect of which the other party did not lead evidence, would introduce considerations of prejudice, and in doing justice to one party, the Court cannot do injustice to another".

In the instant case, it is abundantly clear that the respondent knew, despite the defective pleading, that the contract was said to subsist because of Labour dispute. Such a labour dispute only existed in relation to electrical staff quarters and to no other contract. The parties adduced both documentary and oral evidence on this point. On behalf of the respondent, the learned counsel freely referred to all such documentary evidence. Ample opportunity was given to produce witnesses. Therefore, it would be too late in the day to infer that the element of surprise or prejudice was at all present or that the respondent was unable to understand the true import of the plea or that he could not adduce sufficient evidence. I am therefore, of opinion that the evidence of the petitioner cannot be shut out and it can be taken to be a case of mere mis-description in the pleading.

In this connection exception was taken by the respondent to the statement of Sankhyan who said that he very well understood the distinction between the two contracts although, according to him, there was only a road intervening between the works relating to these contracts. He considered that the entire area was known as open air Jail. On the other hand, the statement of the respondent is that the two works were situated at a distance of two furlongs at least from each other. The electrical staff quarters could not be stated to exist within the complex of open air Jail. In this connection reference need be slightly made to the oral evidence adduced by the parties. Brijendra Parmar (P.W. 12) stated that the electrical staff quarters were constructed near the open air Jail, Bilaspur. The statement does not appear to be correct. Sankhyan (P.W. 37) stated that he had seen the sites of the respective works. According to him, a main road passes in between the two works and the entire area is known as open air Jail colony. At the same time he admitted that the other buildings situate in this area do not belong to the open air jail but belong to other departments. Therefore the entire area cannot be considered to be the open air Jail colony. Sankhyan further stated that he was aware of the details pertaining to the two contracts when he filed his election petition. Nevertheless, he mentioned about the open air jail contract. From this the learned counsel for the respondent argued that the mis-description to be found in the petition is not due to inadvertence. It may be so, but still the main question would, be of surprise or prejudice to the respondent. As I have stated before there was no element of surprise of prejudice and despite this pleading the respondent was in a position to adduce the entire documentary and oral evidence to substantiate his plea.

In order to attract section 9A of the Act, the petitioner had to prove that this contract subsisted in the course of a trade or business and that the contract was

with the appropriate government for the execution of any work. It was argued with some vehemence by the learned counsel for the respondent that the contract could not be stated to be executed with the appropriate government and as such at the very outset the plea would not be sustainable in favour of the petitioner. These two contracts for construction of work were admittedly executed in the year 1961 and 1962 when Himachal Pradesh was either a part of 'C' State or a Union territory. The learned counsel submitted that in February, 1972 Himachal Pradesh had become a State. As such the contract which was executed in favour of the Central Government could not be stated to have been executed in favour of the State Government. For this the learned counsel for the petitioner relied upon section 37 of the State of Himachal Pradesh Act, 1970. Under this provision, all liabilities, rights and obligations arising out of any contract and relating to the Central Government in connection with the Governance of the Union territory of Himachal Pradesh would be the rights, liabilities and obligations of the State of Himachal Pradesh. Therefore, the learned counsel concluded that these two contracts although executed when Himachal Pradesh was part C State or Union territory, would nonetheless be contracts entered into with the State of Himachal Pradesh. I am not satisfied with this reasoning, because it would be one thing to say that the rights, liabilities and obligations of a contract devolved upon the State of Himachal Pradesh and quite another thing to say that the contract itself was engrafted over the State of Himachal Pradesh. In other words, the contract would nonetheless remain as executed with the Central Government, although its rights, liabilities and obligations would devolve under section 37 upon the State of Himachal Pradesh.

This argument is strengthened by noticing provisions in part material, existing in other enactment, Article 8 (1) of the Independence Order, 1947 which dealt with the contract made on behalf of the Governor General-in-Council stood in the following terms which is quoted below excluding other language which is not relevant:

"Article 8 (1) Any contract made on behalf of the Governor-General-in-Council before the appointed day shall, as from that day:—

- (a) if the contract is for purposes which is from that day are exclusively purposes of the Dominion of Pakistan, be deemed to have been made on behalf of the Dominion of Pakistan instead of the Governor General-in-Council; and
- (b) in any other case, be deemed to have been made on behalf of the Dominion of India instead of the Governor General-in-Council"

Sections 8 and 101 of the States Re-organisation Act, 1956 also provide as below:

(Language not relevant excluded).

"87. Contracts:—

- (1) Where before the appointed day an existing State has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power.

- (a) If there be only one successor State, of that State.....

101. Contracts:—

- (1) Any contract made before the appointed day by the Union in the exercise of its executive power for purposes of the Governance of an existing

State shall, as from that day, be deemed to have been made in the exercise of that Executive power of the successor State.....

Section 58 (2) (c) of the Government of Union territories Act, 1963 need also be noticed which excluding the portion not relevant reads as below:

"58 (2) (c) All debts, obligations and liabilities incurred, all contracts entered into..... for the Territorial Council before such repeal shall be deemed to have been incurred, entered into or engaged to be done in the exercise of the executive power of the Union....."

Section 59 of the Punjab Re-organisation Act, 1966 also dealt with the contracts and laid down as below (Language not relevant excluded).

"59. (1) Where before the appointed day the existing State of Punjab has made contract in the exercise of its executive power for the any purpose of the State, that contract shall be deemed to have been made in the exercise of the executive power...."

All these provisions of the various statutes, clearly lay down, that the contracts would be deemed to have been made by the successor government. In other words, the successor government was engrafted as one of the party in the contract. In that language of the statute it was not difficult to infer that the contract itself was deemed to have been executed by the successor Government. Such is clearly not the position under section 37 of the Himachal Pradesh Act, 1970. There the rights, liabilities and obligations of the contract have only devolved upon the State and not the contract itself.

If authority is needed for this proposition, reference can be made to *Inayatullah Khan vs. Diwanchand Mahajan and others* (A.I.R. 1959 M. P. 58). That case related to election and the expression "appropriate government" was considered with reference to section 101 of the States Re-organisation Act, 1956. It was considered that by a fiction under section 101 the contract of one government became the contract of the successor government. As such the said contract could be deemed to be executed with the appropriate government. The contract was novated statutorily to substitute for the previous State and novation came to be statutorily engrafted upon the contract which stood in favour of the successor government. As the position under section 37 of the Himachal Pradesh State Act, 1970 is quite different, the contract entered into with the Central Government cannot be considered to have been entered into with the State Government. As I have already pointed out the rights and obligations under the contract might have devolved upon the State of Himachal Pradesh.

In this view of the matter, I have every reason to conclude that the two contracts for construction of works did not exist as executed in favour of the State of Himachal Pradesh. These contracts were entered into with the Central Government. As such on this short ground, the respondent cannot be said to be disqualified under section 9A because no contract for execution of work had subsisted between him and the State of Himachal Pradesh.

Apart from the position stated above which strikes at the root of the plea, the case is not even otherwise made out on merit and since the petitioner has raised several questions of law and fact relating thereto, I think it worthwhile to consider the case in its other aspect as well. In this regard, the contention of the respondent has been that the breach of the contract was accepted by the Government and the obligation lay upon them to

pay fair wages out of the money lying with them and due to the contractor and as such, it cannot be stated that the contract for the execution of work as such had subsisted. The respondent further contended that the labour dispute started in 1964 and continued to exist up to June, 1972. All along neither the government took any step to realise the amount due from the contractor nor the latter was informed to pay at any stage of the proceedings. A period of 8 years was more than sufficient to infer that the condition in the contract relating to fair wages, was abandoned under the conduct of the parties. This abandonment took place before February, 1972 when the nomination paper was filed. Therefore, no contract could be said to have subsisted. It is also submitted on behalf of the respondent that he award given by the Labour Inspector was itself reduced so as to make it conform with the amount already lying with the department, and due for payment to the contractor. By this conduct on the part of the government the novation of the contract relating to fair wage condition was proved and the entire contract was satisfied although it was posted in the books of the government only in June, 1972.

From these contentions made by the respondent, the inference drawn is that under the explanation to section 9A the contract was fully performed by the respondent and what remained to be performed was the part to be performed by the government for which the respondent was not responsible. Further the entire contract was fully performed by applying the principle of abandonment which related to the fair wage condition incorporated in the contract. Therefore it was concluded that under the Explanation to section 9A the contract itself could not be deemed to be subsisting and as such the respondent was not disqualified to stand in the election.

The parties have adduced sufficient evidence, both documentary and oral in support of their contentions. It would, therefore, be necessary to discuss such evidence at this stage. As to the documentary evidence the same may be narrated in a chronological order. At first I shall take notice of documents which exclusively relate to the electrical staff quarters. The tenders for the contract (Ex. P.W. 12/E and F) were invited on 5-4-1961. Thereafter on 1-5-1961 (Ex. 12/C) the respondent was informed by the Executive Engineer that his tender had been accepted. Ex. P.W. 12/H J&K are the documents which describe the terms and conditions of the contract. The last document (Ex. P.W. 12/K) are the regulations of the P.W.D. contracts which were part and parcel of the dispute contracted. Condition 19-B is the fair wage clause. The contractor was required to pay fair wage to labourers. Failing that the Executive Engineer had the right to deduct from the amount due to the contractor any sum required for making good the loss suffered by a worker due to non-payment of fair wage. *Vis-a-vis* the Central Government the contractor was primarily liable to all payments to be made under and for the observance of the regulations (Ex. P.W. 12/K). Any breach of such regulation was deemed to be a breach of the contract. Therefore, it cannot be denied that the payment of fair wages was a condition of the contract. Privity of contract also existed between the contractor and the Central Government. Ex. P.W. 36/F, G, and H are the running account bills of this contract. The period is between 1961 to 1963. Ex. P.W. 12/C-2 and D.P.W. 36/1 are again the running account bill of this contract for the year 1963 to 1966. P.W. 36/1 indicates that the final adjustment was made on 21-4-1967. It is therefore, evident that the entire construction work was

over by the date. Ex. P.W. 36/E is a joint statement of the account in respect of the two contracts. The statement indicates that payment to labour in accordance with the award was adjusted on 27-6-1972. Since a common statement of accounts was prepared, the petitioner might have been believed that the labour dispute related to both contracts. That would also account for the confusion in the pleadings made by the petitioner. It is, therefore, clear that the contract relating to electrical staff quarters was taken in 1961 and the works were completed in 1967. The adjustment of wages as a result of the award was of course made in June, 1972.

The documents which exclusively relate to the other contract of open air jail at Bilaspur may now be mentioned. The tender submitted by the respondent (Ex. D3) is dated 4-12-1962. This tender was accepted on 6-2-1963 (Ex. D2). The two running account bills (Ex. PW 36/A&B) relate to this contract. The final adjustment was made on 19-7-1967. It was also mentioned in (Ex. PW 36/A) that no labour complaint existed in respect of this contract.

After stating the two sets of documents which exclusively relate to individual contract, I would now detail documents which pertain to labour dispute and which existed in common for both the contracts. These documents start from 1964 and end on 2-12-1972. Therefore, the labour disputes seems to have dragged on for a period of at least 8 years for which no responsibility can be ascribed to the respondent. The first complaint of Chet Ram worker about the fair wage is dated 19-6-1964 (Ex. PW. 30A-2). The Labour Inspector wrote to Chet Ram and some proposals were given. This complaint it appears, disappeared later on. One does not know as to what happened to the dispute of fair wage relating to Chet Ram. After about 2 years a fresh complaint was made by Naratoo Ram and others on 3-3-1966 (Ex. PW 30A-9). The General Secretary, Mazdoor Labour Union, wrote to the Labour Inspector that he should intervene and get the payment made on 23-4-1966 (Ex. 30A-4) the Labour Inspector replied to the General Secretary asking for details. In March, 1967 (Ex. PW. 30A-5). The Labour Commissioner sent the complaint of the labourers to Executive Engineer on 7-8-67 (Ex. PW/29A), the Executive Engineer wrote to the Labour Inspector and referred to both the works undertaken by the respondent. He wanted to know as to how much amount was to be retained from the dues of the contract for payment to the labourers. In August, 1967, the labourers also complained to the Chief Minister and on 20-8-1967 (Ex. PW. 30A-6) the Private Secretary to the Chief Minister wrote to the General Secretary of the Union that the matter was being investigated. On 26-8-1967 (Ex. PW/29B and PW29/B-1) the Labour Inspector wrote to the respondent about the dispute. There is no proof that this letter at all reached the respondent. At any rate, the respondent denied that he was made aware of any such proceedings. The General Secretary of the Union again wrote to the Labour Inspector on 26-8-1967 (Ex. PW. 29/C) that the payment was not made and the Labour Inspector should intervene. On 5-9-1967 (Ex. PW. 29/D) the Executive Engineer wrote to the Labour Inspector and asked for the details. A similar letter was sent by the Executive Engineer to the Secretary of the Labour Union on 29-9-1967 (Ex. PW. 29/F). A similar letter was again sent by the Executive Engineer to the General Secretary (Ex. PW. 30A-1) and information was sought as to how much was to be paid on 4-10-1967 (Ex. D-5) the Labour Inspector wrote

to the Executive Engineer that payments had not been made, at consolidated statement should be sent. At this stage in November, 1967 a third complaint was made by Naratoo Ram and others (Ex. PW. 30/A-7) and the Labour Officer sent this complaint to the Labour Inspector for necessary action. On 6-12-67 (Ex. PW. 20/g) the Executive Engineer again wrote to the Labour Inspector and wanted the details to be supplied. On 23-4-1968 (Ex. PW. 30/A-8), the Executive Engineer wrote to the General Secretary of the Union that no action could be taken unless the award was given. A fourth complaint was made by Naratoo Ram and others to the Executive Engineer some times in March, 1970 (Ex. PW. 12/L) stating that fair wages had not been paid. On 1-4-1970 which means after a period of two years when the previous correspondence was made the Executive Engineer (Ex. PW. 29/I) wrote to Naratoo Ram and others that they should contact the Labour Inspector. On 8-6-1970, the Executive Engineer (PW. 29/H) wrote to the Labour Inspector that the award should be communicated. On 23-7-1970 (PW. 29/M) the Labour Inspector sent a statement of claim which according to him, was of Rs. 3,200/- which should be paid to the labourers. On 23-7-1970 (Ex. 30A-3) a complaint was freshly made by Naratoo Ram and others. It was stated that the dispute related to Government quarters Jabli which was decidedly a mis-description. On 13-8-1970 (Ex. PW. 12/M) the Executive Engineer wrote to the Labour Inspector that they were taking action and if any amount was due to the contractor that would be paid. On 27-8-70 (PW. 29-N) the Chief Engineer sent the complaint of Labourers to the Superintending Engineer. On 25-9-70 (Ex. PW. 12/N) an award was given which was for Rs. 3,600/-. On the same date a letter was sent to the respondent (Ex. PW. 29/P) but this letter came back because it would not be served upon the respondent. Thereafter no efforts were made to contact the respondent. On 5-10-1970 (Ex. PW. 30A-10) Naratoo Ram and others wrote to the Chief Engineer that they were not paid so far. On 13-10-1970 (Ex. PW. 12/O) the Executive Engineer wrote to the Labour Inspector that the final position should be looked into and a reply should be sent. On 26-6-1972 that is to say again after a lapse of 2 years, a decision was given by the Labour Inspector reducing the award (Ex. P.W. 29/Q). The amount was reduced so as to conform with the amount yet to be paid to the contractor. Thereafter, the amount was adjusted and the payment was made. On 2-12-1972 (Ex. PW. 29/R), the Labour Inspector wrote to the General Secretary of the Union that they had done their duty and after reduction of the award the amount had been paid to the labourers. A copy of this letter was also endorsed to the respondent. But again there is no proof that this letter was really sent to the respondent or was received by him.

The dates which were referred to in this correspondence clearly indicate that the labour dispute started in 1964 and was dropped at that stage. It was again resumed in 1966 and went on upto April, 1968. Thereafter the dispute was again dropped for two years and was resumed on 1-4-1970. It went on upto 13-10-1970. Again there was a gap of two years and the dispute was resumed on 27-6-1972 when the final adjustment was made. This spasmodic treatment given to the dispute led the petitioner to infer that one of the important conditions of the contract was not fulfilled until June, 1972. As such, according to the petitioner, the contract itself subsisted even on the date of the declaration of the result that is to say of the filing of the nomination paper. It is also significant that at no stage the respondent was made aware of these proceedings.

Under the regulations (Ex. PW. 12/K) the contractor could file objections against the award. It was rather incumbent upon the authorities giving the award to have heard the contractor. They did not do so. As revealed by the oral evidence neither the statement of the contractor nor of his witnesses were recorded. Even the site was not inspected. It seems a list was submitted by Naratoo Ram and others which was taken at its face value. Without any scrutiny, the award was given and it is significant that the same was subsequently changed and reduced to conform with the sum payable to the contractor. It can therefore, be inferred that the contract was discharged on papers in June, 1972. Thereafter, neither the labourers laid a fresh claim against the respondent nor the issue was left alive in any form. There is no evidence whatsoever that the labourers themselves agitated the issue after June, 1972, as they had been doing since 1964. There is no evidence to indicate that the letter dated 2-12-1972 (Ex. PW 29/Q) was at all served upon the respondent. Therefore, it would be wrong to conclude that the contract subsists even today, and did not come to an end on 27-6-1972 when the final adjustment was made.

Now a word about the oral evidence Brejindera Parmar (PW. 12) employee of the P. W. D. stated that the final payment of the bill was not made to the contractor and that the security was not returned, and the same adjusted for payment of the award. He could not deny that after May, 1967 neither the contractor was asked to do any construction work nor any such work had remained to be completed. The witness had brought the office file and he could not find any letter whereby Kuldeep Singh, respondent was asked to deposit the amount or to seek adjustment in accordance with the terms of the award given by the Labour Inspector. M. M. Kath, (P.W. 29), the Labour Inspector stated that the complaint related to the electrical staff quarters. The witness had brought his file and then gave his statement, he stated that there was no paging in the record and as such documents may even be untraceable. On 25-9-1970 (Ex. P.W. 29/O) the registered cover was received back with the report that the respondent was not traceable. Thereafter, no attempt was made by the department to address or serve any letter on the contractor. After 25-9-1970, according to the witness and upto 31-3-1972 no correspondence whatsoever was made with the respondent. This would almost clinch the issue. It is more than proved that the contractor was kept entirely in the dark and the entire proceeding was behind his back. According to the Labour Inspector, no notice was given to the respondent before giving the award. He very much affirmed that he did not consult the muster rolls as he did not consider that necessary. He never visited the spot and never ascertained as to whether the complainants were at all working under the contractor. Whatever knowledge he had was derived from the record. He never consulted the record of the P. W. D. He did not even record the statements of the labourers. That is how the award was given and on the basis of the such an award it is being pleaded that the respondent was disqualified to stand in the election. Balbir Singh (P.W. 30) General Secretary of the Mazdoor Union has also been examined. He referred to some

award which was given in 1964 which related to the disputed workers and also to few other works. It is difficult to understand the import of the statement. Admittedly no award was given in 1964. The witness could not tell if the entire contract work so far as the respondent is concerned, was finished by 1966. The witness is rather a close associate of Sankhyan and was even arrested along with him in connection with the agitation about the one Champa Kumari. This shows the interest which the witness had in Sankhyan. Pahuja (PW. 36) is the Accountant in the P. W. D. He came essentially to prove the various documents. However he admitted that the work relating to electrical staff quarters was completed by the respondent on 21-6-1965. The Department could only adjust the award in their books in June, 1972. Similarly the final adjustment of the other contract of open air jail was made, according to the witnesses, on 3-4-1972. It is admitted by him, that the contractor had fully performed his part in the two contracts on 21-6-1965 and 29-3-1967. No construction work thereafter remained to be done. The witnesses could not tell why the security as well as compensation had remained in deposit with the department and were not adjusted earlier after 1965 or 1967. The final bill, for electrical quarters, according to the witness was passed in April, 1967, and it was also adjusted in May, 1967. It seems that thereafter the account was kept open as the security had not been refunded, perhaps the contractor himself came to know from some indirect source that he had to make payment to the labourers and therefore, he did not take back the security. The Department adjusted the security and also other payments, due to the contractor towards the award. This they chose to do in June, 1972. Kuldeep Singh (D.W. 28) stated that he had completed the entire construction work in 1965. The witness was shown the letter dated the 25-9-1970 of which the envelope is (Ex. 29 P.W./P) and the reduced award dated 27-6-1972 (Ex. P. W. 29/Q). He was also shown the letter dated 6-8-1967 (Ex. P.W. 29/B) purported to have been sent to him for payment to the labourers. He denied that any such letters were received by him. He very much stated that no indication whatsoever, was given to him in respect of the proceedings relating to the award. He was never summoned in that connection at any stage. He was shown another letter (Ex. P.W. 35/B) dated 26-8-1967 purported to have been written by the Labour Inspector to him. He denied that he received any such letter. In fact after 1966 he had no correspondence with the P. W. D. in connection with these contracts. It is abundantly clear that no effort whatsoever was made to make the contractors, aware of these proceedings. His statement regarding withdrawal of security no doubt indicates that he purposely left it to remain in deposit. This he obviously did because if any payment was to be made to the labourers the same could be made out of the security deposit. He did not write to the department, nor was it necessary for him to do so that the payment he made to the labourers from his security deposit. This the department itself could do in accordance with the condition laid down in the contract.

From all this, it can certainly be inferred that the dispute regarding labour was made to subsist until June, 1972 because the final adjustment of the award was made on that date. It is also manifest that payment to labour was a condition in the contract and there was a specific clause that in the event of the contractor failing to make payment to the labour the Executive Engineer was to deduct the amount from the dues payable to the contractor. That was done in June, 1972 although it could be done much earlier as seen from the dates noticed above.

It would be instructive at this stage to notice a few authorities. The three stages in the file of a contract are very aptly pointed out in *Satyendra Kumar Das vs. Chairman of the Municipal Commissioners of Dacca and others* (AIR 1931 Cal. 288). There is first the making of the contract, secondly the performance of the contract and lastly the discharge of the instant case, there is no dispute as to the making of the contract. It is of course correct to say that discharge can be by performance of contract. There is a dispute as to that. It is submitted by the respondent that he had fully performed his part of the contract in 1967 and thereafter it was for the government to have performed its part of the contract. In *H. R. Annamalai Mulliar vs. Devraja Urs and others* (AIR 1968 Mysore 140) it has been rightly pointed out that the Explanation provided to section 9A of the Act refers to a case of discharge of contract by performance—that is where the contract is fully performed by one party. All other cases not covered by the Explanation come within the scope of the disqualification under section 9A. In *Konappa Rudruppa Nadgouda vs. Vishwanath Reddy and another* (AIR 1969 S. C. 447) their lordships pointed out the circumstances in which a contract can be stated to be fully performed. It was pointed out that a right of a person to stand for election is a valuable right just as a right of a person to vote. As such a sensible view of section 9A will have to be taken and the law is not so strict as all that. The observations of course related to the facts and circumstance of the case. Still a guidance can be taken from the decision. A very strict and technical view of explanation to section 9A may not be taken. In the instant case the contractor had performed his part of the contract. The breach was committed and it was for the Government to pay back the labour out of the money due to the contractor. This they did, although delayed the matter until June, 1972. In such circumstances the contract cannot be stated to be subsisting. In *Atma Das vs. Suriya Prasad* (1969 S. C. Cases Vol. III, P. 616) their Lordship were considering a case in which a plea under Explanation to section 9A was sustained. It was held that failure to settle the respective claims of Government for a number of years (in that case 6 years) does not evidence an intention to keep the original contract alive or subsisting on the nomination date for the election. The silence is evidence of acquiescence in the "abandonment of the contract" and not of a subsisting contract. Similarly, in the instant case the least that can be stated in favour of the respondent, is that the settlement of the claim regarding fair wages to the labour was left pending for no fault of his upto June, 1972. The inference can be of the abandonment of the contract. This case of the Supreme Court was noticed in *Anokh Singh vs. Surinder Singh and others* [1. L. R. 1971. (1) pun. 585]. That case also related to section 9A and dealt with the disqualification stated to be incurred by candidate. It was held that a candidate gets the benefit of the Explanation if the contract entered into by him has been fully performed and all that remains is the discharge of the corresponding obligation of the government under the terms of the contract. The contractor having done all that would be required of him, would be deemed to have fully performed his part and merely because there was a subsisting claim of the government, the contract itself would not be deemed to be subsisting within the meaning of section 9A. This is all the more true in the case of contract for execution of work because what was remained to be performed is not the execution of work but some ancillary claim made by the Government relating thereto. The section itself prohibits a subsisting contract for execution

of work and nothing more or less. The Parliament appears to have felt that the state of law pointed out, in *C. Vithaldas Jasani vs. Moreshwar Prasad and others* (supra) would have disintegrated any candidate who had once entered into a contract of any of the two specific kinds with the government to become a member of the Parliament or of any State Legislature for any length of time till the Government chose to make final payment to him and that disputes arising out of the contract claim against the Government or vice-versa, involving possible litigation might have resulted in taking away from certain electors their valuable rights of standing in the elections for a major part of their life inspite of the contract having been fully performed by the Contractor. In order to meet such a situation the Explanation to section 9A was appended. If a loose interpretation is given to the section a mischief would be perpetrated and despite the Explanation the candidate for no fault of his would be debarred from contesting the elections. This cannot be permitted otherwise the very purpose of the amendment made by Parliament would be defeated. In my opinion, the present case falls exactly within the ambit of the Explanation. Pollock and Mulla in their *Indian Contract and Specific Relief Act* (9th Ed.) page 449 dealt with the question of discharge of contract. The observation made was that where an inordinate length of time has elapsed during which neither party has attempted to perform or called upon the other to perform the contract between them, it may be inferred that the contract has been abandoned—"the matter is off" altogether". Therefore, in the situation made out in the present case, the contract was off altogether upto February, 1972. The mere fact that a casual letter was despatched by the General Secretary of the Labour Union to the Labour Inspector or the Executive Engineer or vice-versa would be of no material consequence. It has been established that neither the government performed its part of the contract nor asked the contractor to perform it. As evidence, the main contract for execution of work was long fulfilled. The dispute regarding fair wages although arising out of the contract cannot be considered to be itself a contract for execution of work said to be subsisting on the date of the filing of nomination paper.

I have already pointed out that under the fair wage clause of the agreement it was the duty of the contractor to make payment to the labours. It may be that the respondent came to know of the claim which was set up by the labourers right from 1964. With that idea he did not recover his security and other due from the Government. It is also manifest from the condition clause 19 B (a) of the agreement that the Executive Engineer or the Sub-Divisional Officer had the right to deduct from the moneys due to the contractor any sums required to make good the fair wages due to the labourers. This was certainly an act to be performed by the Executive Engineer of the Sub-Divisional Officer. The Contractor was not required to perform this act in any manner. The mere fact that the contractor did not write to the Executive Engineer or the Sub-Divisional Officer that he was leaving the security deposit to make good the fair wages, would not go to prove that he had refused such payment which was to be made to the labour. I have already pointed out that the claim itself was made by the labour from time to time without any consistency. The award was given behind the back of the contractor. No evidence whatsoever was recorded to justify such an award. Subsequently the award itself was reduced so as to make

it conform with the amount lying with the Department. Therefore, everything was one sided and the performance was to be made by the Government which they ultimately did in June, 1972. It cannot be stated by any stretch of imagination that the contractor had to perform any part of the contract, in the circumstances. In my opinion, therefore, the Explanation of section 9A fully applied and contract did not subsist. The respondent had fully performed his part and the breach regarding fair wages was accepted by the Government. It was then for the government to have performed its own part regarding fair wage which they ultimately did in June, 1972. Even if it is stated that the dispute regarding fair wage was subsisting on the date of the filing of the nomination paper, that dispute by itself would not constitute a contract for execution of work and hence section 9A was not attached. In the alternative, it can also be inferred that the contract itself was abandoned by the conduct of respective parties for having left the fair wage condition without performance for the considerable period of time in this case near about 8 years. Therefore the contract never subsisted on the date of the filing of the nomination paper. The reduction of the wage award was novation of the condition regarding fair wage and was deemed satisfied in June, 1972. There is no indication from the record that the matter was kept alive except the letter (Ex. P.W. 29/R) dated 2-12-1972 which was endorsed to the contractor-respondent which too was not received by him. There, the matter ended. No effort whatsoever was made either by the labourers themselves or by the Government to lay a further claim upon the contractor.

I can, therefore, conclude that the respondent was not disqualified from standing in the election.

The issue is decided in favour of the respondent.

Issues No. 8 and 9:

The petitioner has given details of such corrupt practices and his case is that either the respondent himself committed them or his agents committed them with his consent. It is admitted that the respondent had no election agent. If the corrupt practices were committed by the agent of the respondent, other than his election agent, under section 100(1)(d)(ii) the petitioner has to prove material effect on the election in favour of the returned candidates before the election could be declared void. The petitioner has also alleged non-compliance with the provisions of the Act and its material effect on the election has also to be proved. A plea in an election petition that a candidate or his agent is guilty of corrupt practice is a plea relating to a grave charge. It is manifest that if this charge is proved, not only the election is invalidated but the respondent is also disqualified for standing in the election. A charge of this nature must be established by clear and cogent evidence by those who seek to prove it. Mere propendence of probability in the matter of evidence will not be sufficient. He has to satisfy that the conduct attributed to the offender is proved by evidence which is clear and cogent and almost clinching to the issue. In other words, the charge must be proved beyond reasonable doubt. This view can be substantiated by a number of authorities. See *Mahant Shree Nath vs. Choudhary Ranbir Singh* (unreported judgments S. C. 1970 Vol. II 762) and *Lalraunkungh vs. Maokho Tangjom* [unreported judgments S. C. 1969 (Vol. I), 12]. A similar view was taken in *Ghasi Ram vs. Dal Singh* (AIR, 1968 S. C. 1191). It would then be con-

venient to take up individual items of corrupt practice as alleged by the petitioner.

It has been stated that on the night between 17th and 18th February, 1972 Dr. Y. S. Parmar, Chief Minister of Himachal Pradesh came and stayed at the Circuit House of Bilaspur. At the time the respondent Kuldip Singh was also present. He brought Hari Singh (D.W.22) to Dr. Parmar. The latter told Hari Singh that he should support the Congress candidate and in lieu thereof a prosecution case pending against him would be withdrawn and a dispensary which existed in village Saloha would be shifted to Makri, the village of Hari Singh. According to the petitioner, that would be a case of bribery under section 123(1). The election would be void either under section 100(1)(b) or under section 100(1)(d)(ii). For the plea under sub-clause (d)(ii) the petitioner had to prove material effect which this act of bribery caused upon the election.

The plea regarding the shifting of the dispensary is not substantiated. Ex. P.W. 7/A is a letter written by the Chief Medical Officer, Bilaspur addressed to one Gopal Dass, Dispensary Incharge, Saloha. This letter referred to an oral information received from Shri S. L. Talwar, Under Secretary (Health) of the Government of Himachal Pradesh, and on the basis of that information the order was made for the shifting of the dispensary to Makri. The letter is dated 19-2-1972. But on 22-2-72 another letter Ex. P.W. 7/B was issued by the same authority to Gopal Das that the dispensary should not be shifted. Although the date is material because on the night between 17th and 18th February, 1972, the Chief Minister was no doubt staying at the Circuit House Bilaspur. Yet the fact of the matter is that the dispensary was not shifted. When elections were drawing near, the residents of Saloha were likely to suffer because of the shifting of the dispensary and perhaps the authorities were afraid of displeasing one section of the people at the cost of the others, both of the same constituency. Therefore, it would be wrong to say that the shifting of the dispensary was at all done or at all intended to be done in furtherance of the prospects of anybody's election. As to the withdrawal of the prosecution case. It is no doubt correct that an application was moved on 30-3-1972 (Ex. P. W. 37/3) by the Public Prosecutor that permission be accorded by the court under section 494 Criminal Procedure Code for the withdrawal of the prosecution against Hari Singh and others. This application was considered by the Magistrate on the same day and the order of withdrawal (Ex. P.W. 37/2) was made. The first Information Report regarding the occurrences which were the subject matter of this prosecution is Ex. P. W. 37/2. It is manifest that a judicial order was made by the Magistrate long after the results of the election were out and the act of withdrawal cannot be construed to be an act of bribery in any sense of the term.

The oral evidence produced by the petitioner in this connection is also devoid of any merit. Dila Ram (P.W.5) and Khazana Ram (P.W. 6) were stated to be present at the Circuit House and they heard the talk which took place between the Chief Minister and Hari Singh. As evident these two witnesses has no business to be present near the Chief Minister at that odd hour of the night because admittedly the party returned from there after mid-night. The two witnesses had gone for their private work relating to the opening of a water supply scheme and to a dispute regarding certain land belonging to Dila Ram which was situated inside a Khud. It is beyond comprehension that these two persons who

were not very much familiar with the Chief Minister would have gone to meet him at that odd hour of the night for these private works. The entire statements of these witnesses appeal to be concocted for the purpose of this case. According to Dila Ram (P.W. 5) Dr. Parmar had reached after mid-night on that day. Hari Singh was present and Kuldip Singh respondent complained that Hari Singh being Up-Pradhan was not working properly in favour of the Congress and in order to win him persuaded Dr. Parmar to withdraw the prosecution against him and to shift the dispensary to his village Makri. The witness had no reason to remember the date because she could not even name any English calendar month. Whatever supposed talk took place in his presence at the Circuit House was not reported by him to Sankhyan. According to him, Kuldip Singh himself had asked him to come to the Circuit House, although Dr. Parmar had never called him to be present there. It is impossible to believe that Kuldip Singh, respondent would have summoned a stranger to the Circuit House to hear such a confidential talk. The witness was appointed counting agent for Sankhyan during the election and that shows his interest. He also deposed having received Rs. 200/- from Randhir Singh for doing the election work of the respondent. For this payment a specific plea has been taken by the petitioner which shall be dealt with at the proper stage. The witness Dila Ram admitted that he never met the Chief Minister at that odd hour of the night on any other occasion. In fact he had never gone to meet any public leader any where at that hour. This was the solitary occasion for him and of course he utilised it to come and depose about it in favour of the petitioner. Khazana Ram (P.W. 6) gave a similar statement which is also unacceptable. He had gone to the Circuit House along with Dila Ram and hear about the talk concerning Hari Singh. The witness is known to Sankhyan from a long time. Nauria Mal the younger brother of Sankhyan is the Pradhan of the Panchayat of which the witness is Up-Pradhan. This establishes his association with Sankhyan. Neither any body asked him nor did he himself tell about that talk to any person. Never the less these two witnesses were produced by Sankhyan. The inference is obvious that they are got up persons who came to depose at the instance of the petitioner. Besides these two witnesses Sankhyan (P.W. 37) has also mentioned about this corrupt practice. His statement is purely hearsay because he was not present at the Circuit House. Sankhyan was unable to testify upon his knowledge as to the correctness or otherwise of the offence imputed in the First Information Report against Hari Singh and others. It may, therefore, be that the prosecution case itself was false and was withdrawn on merit. As such no exception can be taken to that conduct on the part of the Magistrate.

The respondent has produced Hari Singh (D.W.22) and he denied that he at all went to the Circuit House and made that request to the Chief Minister. The witness stated that a false case was instituted against him which was proved to be false and hence its prosecution was withdrawn. The witness admitted that he was friendly to Sankhyan and even canvassed for him in the elections. The statement of Hari Singh (D.W. 22) thus belies the case of the petitioner. Kashmir Singh (D.W. 1) is the Sub-Divisional Magistrate of Bilaspur. He stated that while performing the duties of District Magistrate he had directed the public prosecutor to withdraw the case and the decision was taken on merit. Kishori Lal Tadu (D.W. 1) who is at present Parliamentary Secretary to the Government of Himachal Pradesh and

was a candidate from Sadar Bilaspur Constituency, was present along with Kuldip Singh at that time at the Circuit House. He emphatically denied that Hari Singh was at all present at the Circuit House. No such talk took place between Kuldip Singh and Dr. Parmar concerning Hari Singh. Sita Ram (D.W. 15) who is an M. L. A. from Ghumarwin constituency of Bilaspur and was a candidate in the election was also present at the Circuit House. He too emphatically denied that Hari Singh was present or any talk concerning him took place at that time. The three candidates including the respondent actually returned together from the Circuit House after mid-night when the Chief Minister had retired to sleep. Thus there was no possibility of Hari Singh or any body else to have met the Chief Minister at that time. Kuldip Singh, respondent (D.W.28) similarly denied the presence of Hari Singh, or any talk concerning him. The respondent had gone with Kishori Lal Tadu (D.W. 1) and Sita Ram (D.W.15) to meet the Chief Minister as he had arrived to give speeches in the constituency in connection with the elections.

It is, therefore, concluded that the corrupt practices concerning Hari Singh were never committed and the entire story appears to have been fabricated for the purposes of the case.

Another plea of corrupt practice relates to one Uma Datt. He is also stated to have visited Dr. Parmar at the Circuit House, on the night between 17th and 18th February, 1972. The contention of the petitioner is that Kuldip Singh himself brought Uma Datt from Charol where he had gone in connection with a marriage party. He was produced before Dr. Parmar and the latter upon being complained that Uma Datt was not working for the Congress threatened him and stated that his son would be transferred to a distant place. It was also stated by Dr. Parmar that the other son of Uma Datt would get employment from the government. However as revealed by evidence Uma Datt did not succumb to the influence of Dr. Parmar. Therefore, upon the very saying of the petitioner no material effect was caused upon the election of the respondent due to Uma Datt who was admittedly not under the influence of Dr. Parmar. Apart from this, the offence regarding this corrupt practice is also devoid of any merit.

The respondent has of course denied that he ever went to Charol and brought Uma Datt. According to him, Uma Datt was not present at the Circuit House and hence no occasion arose for bringing influence upon Uma Datt.

Dila Ram and Khazana Ram (P. Ws. 5 and 6) whose statement are already discussed, are the only witnesses to prove about this visit of Uma Datt at the Circuit House. For the reasons stated these two witnesses spoke deliberate lies. There was no occasion for them to have visited the Circuit House. The talk about Uma Datt could not have arisen in their presence when admittedly they were men of Sankhyan. However, a reference need be made to their statements. Dila (P.W. 5) stated that he known Uma Datt from 10 to 12 years. When asked about the talk which Dr. Parmar had with Uma Datt, the witnesses replied that Uma Datt kept quiet and did not say anything to Dr. Parmar. The witness could not name the two sons of Uma Datt. His statement is entirely unconvincing. Khazana Ram (P.W.6) stated that Uma Datt had come in a station wagon along with Kuldip Singh and his nephew Randhir Singh. He also

stated about the supposed talk which took place between Uma Datt and Dr. Parmar. These witnesses also stated that Uma Datt had remained quiet all along and did not say a word to Dr. Parmar. Thus the two witnesses impute a very strange conduct to Uma Datt. Ordinarily he must have spoken to Dr. Parmar in reply to that talk. Sankhyan (P.W. 37) was of course not present at the Circuit House. Thus he could not improve upon the statements of the two witnesses.

The defence witnesses Kishori Lal Tadu (D.W. 9) and Sita Ram (D.W. 15) who were both candidates in the election and were admittedly present at that time denied that Kuldip Singh had brought Uma Datt from Charol. They denied the presence of Uma Datt, and very much stated that no talk took place between Uma Datt and the Chief Minister. Tadu (D.W. 9) was not even cross examined on his statement in respect of Uma Datt. Kashi Ram (D.W. 17) stated about the barat which had gone to Charol. Uma Datt had accompanied that barat. The witnesses were all along present on the night of 17th February, 1972 at Charol. According to the witness, Kuldip Singh never came to Charol, and Uma Datt did not go with him in a station wagon or a jeep. In fact Uma Datt had stayed with the witness at the house of one Tulsi Ram on that night between 17 and 18 February, 1972. There is no reason to disbelieve the statement of this witness. Tulsi Ram (D.W. 19) at whose house Uma Datt had stayed for the night also came and stated that Kuldip Singh did not come to fetch Uma Datt from Charol and that Uma Datt himself never went to Bilaspur to visit the Chief Minister. He stated about the barat and also about the fact of Uma Datt and Kashi Ram (D.W. 17) having stayed at his house on that night. He is again a witness whose statement cannot be brushed aside. Kuldip Singh (D.W. 28) of course denied about the visit of Uma Datt and of any talk which he is alleged to have had with the Chief Minister.

Thus there is absolutely no evidence in respect of Uma Datt and the corrupt practice alleged in respect of him is not proved.

Another instance of bribery is with reference to Devi Ram of Kiaran, Tulsi Ram of Chakoh and another Devi Ram of Semog and Badru Ram, and Kirpa Ram of Chandpur who were stated to be working as mates on the P. W. D. road namely Thach-Chakoh-Sakroha road. It has been asserted that a meeting took place at the house of Tulsi Ram of Chakoh on 29-2-1972. It was managed that these mates lost their service on the road and in that meeting they were reinstated as mates with a promise that they would support Kuldip Singh. It was also stated that one Kirpa Ram employed as Supervisor on the road in place of one Kala Ram who worked as Polling Agent for Kuldip Singh.

The petitioner relied on oral evidence. Again he failed to substantiate this item of corrupt practice. Narain Dass Kapoor (P.W. 13) stated about the sanction which was granted for the construction of the aforesaid road. He has admitted that Tulsi Ram and others were no doubt working as mates on this road and they were removed from service w.e.f. 31st January, 1972. But there was a totally different cause for this discontinuance of their service. A dispute had arisen with the people belonging to village Samo when the road reached up to that village. As a result to that dispute the construction work had stopped and naturally the mates were out of employment. Subsequently, after two days the dispute was settled and these mates were re-employed w.e.f. 2-3-1972.

Thus the allegation of the petitioner that the work on the road was stopped on the pretext of paucity of funds is not proved to be correct. Narain Dass Kapoor is Head Clerk in the B.D.O.'s Office and he was very much concerned with the construction of that road. His statement is worthy of credence. R. K. Das (P.W. 33) is the Development Assistant in the office of the Deputy Commissioner, Bilaspur. He brought the record summoned from his office. The record related to the construction of the aforesaid road. He proved that there was no paucity of funds, and to that extent there could be no dispute between the parties. His statement appears to be good for nothing. Sankhyan (P.W. 37) significantly stated not a word about these mates or their removal from service. Thus such a minor incident could not establish anything worth the name and the petitioner's evidence is not sufficient to record a finding on corrupt practice. Tulsi Ram of Chakoh whose name is amongst the mates however, denied that any meeting was called on 29th February, 1972, or that any assurance was given to them that they would be re-employed on the condition that they supported Kuldip Singh. The witness was no doubt working as mate on that road. According to him the impression that was given was that the budget had exhausted and, therefore, the construction work was stopped. As I have stated before the reason was quite different. The witness was again appointed a mate when the work was resumed. In view of the statement of Narain Dass Kapoor (P.W. 13) and R. K. Das (P.W. 33), both government officials, it is difficult to believe that the work had stopped because of paucity of funds. At any rate no attempt was made to get proved from the witness Tulsi Ram (D.W. 7) that any assurance was taken from the mates for election work in favour of Kuldip Singh before they were given employment on the road. It was petitioner to have established that fact from the witness Tulsi Ram and he failed to do that. Devi Ram of Kiran (D.W. 8) is also mentioned by the petitioner as one of the mates. The petitioner again failed to elicit from him that he was re-employed on the road because he had promised to work for Kuldip Singh. The witness, however, admitted that his services were discontinued on that road and that later on he was re-employed when the construction work started. It may also be mentioned at this stage that Tulsi Ram (D.W. 7) was appointed polling agent for Kuldip Singh, but from that fact alone it cannot be inferred that he was bribed in the manner stated by the petitioner to do the election work. The witness has acted merely as a relieving polling agent and so it cannot be inferred that he was a very active worker for Kuldip Singh. Raloo Ram (D.W. 12) was working as a labourer on that road and he also stated that it was given out that the budget had exhausted and so the work was stopped. The statement may not be correct, but nothing was elicited from the witness in cross-examination to indicate that Devi Ram (D.W. 8) and Tulsi Ram (D.W. 7) were employed as mates under a promise that they would support Kuldip Singh. Kuldip Singh (D.W. 28) of course denied that he had in any manner influenced the mates. Similarly, none on his behalf influenced them. The respondent is not even aware as to whether the construction work had stopped that what was the reason for the stoppage of work. He stated that he never got employed, any labourers or mates on that road.

It is, therefore, safe to conclude that the corrupt practice with reference to the employment of mates on this road has also remained unsubstantiated.

Now, I shall advert to the alleged instance of undue

influence within the meaning of section 123 (2) of the Act. It has been pleaded that Dr. Parmar the Chief Minister had arrived at Bilaspur on the night between 17th and 18th February, 1972. He addressed a meeting at Chakoh at 10 A.M. on 18-2-1972. Thereafter, he addressed another election meeting at Namhol at 2 P.M. on the same day. In the two meetings, according to the petitioner, the Chief Minister stated that he was ruling the government and was possessed of the keys of the treasury and that he would give money for development work in the constituency provided the Congress candidate was returned successful in the election. According to the petitioner, this would amount to undue influence within the meaning of the Act. The respondent admits that the two election meetings did take place and were addressed by the Chief Ministers. However, he denied that any speech was given by the Chief Minister. The respondent also stated that the two meetings were organised by the District Congress Committee and that Dr. Parmar could not be considered to be his agent for the purpose of election work. In fact the tour was organised by the Chief Minister in support of all the Congress candidates. The tour programme (Ex. D. 21) was issued by the Pradesh Congress Committee. As a political leader, the Chief Minister was undertaking an extensive tour for the success of his party. This he could bona fide do and no exception can be taken to this conduct.

A perusal of evidence lead by both the parties leaves no hesitation for me to conclude that whatever has been imputed against the Chief Minister for his speech, has not been proved. That being so, the question of agency will lose its significance. It has also been argued that the Chief Minister was accompanied by government officials and so the assistance of government machinery was obtained in support of the respondent. This plea is not to be found in the petition and as submitted by the learned counsel for the respondent the petitioner should be debarred from taking it up. Apart from this, such a plea has also been taken with reference to the visit of the Prime Minister and while dealing with the case concerning her visit, I shall be dealing with this ground as to how far government machinery could be set in motion whenever dignitaries like the Prime Minister or the Chief Minister undertake election tour.

In respect of the Chakoh meeting, no witness was produced by the petitioner. Sankhyan (P.W. 37) merely stated that he had heard Kuldip Singh announcing on loudspeaker that the Chief Minister was to address a meeting at Chakoh and Namhol on 18-2-1972. Thus there is no evidence whatever on behalf of the petitioner for Chakoh meeting. However, the respondent besides giving his own statement has produced several witnesses who were present in the two election meetings. Tulsi Ram (D.W. 7) was present at Chakoh and he denied that any such words were uttered by the Chief Minister. Rather he had stated that the Congress had done good work in the Pradesh and its candidate should be voted. Khazan Singh, President of the District Congress Committee had sent a letter to the Panchayat that the Chief Minister was arriving at Chakoh. Upon that the people had collected for the meeting. This the witness proved that the election meeting was called by the District Congress Committee. Devi Ram (D.W. 8) was also present at Chakoh, and he gave a similar statement. He denied that any such words were uttered by the Chief Minister. Kishori Lal Tadu (D.W. 9) was of course one of the Congress candidates. He was present at Chakoh and he also denied that the Chief Minister had stated in the manner imputed against him by the petitioner. Rather the Chief Minister had stated that the Congress party

had done so much work in the State and if the people wanted they could again vote for the Congress candidate. The witness further stated that the meeting at Chakoh and Namhol were organised by the Congress party. A capital seems to have been made out by the petitioner on the basis of the tour programme (Ex. D. 21) which was *Prima facie* sent to each candidate to facilitate election meetings. Be it as it may, the meeting itself was organised by the Congress organisation. If the opinion of the candidate for the place and time of meeting was solicited there does not lay any objection in the procedure. That by itself would not make the Chief Minister an agent of the candidate. According to Tadu (D.W. 9) the party had arranged for the loudspeakers and for the dias etc. Rallu Ram (D.W. 12) was also present at Chakoh and he also denied that the Chief Minister stated about the keys of the treasury or about the development work as stated by the petitioner. Tandhir Singh (D.W. 27) is stated by the petitioner to be present in the two meetings at Chakoh and Namhol. He was produced by the respondent and he denied that he was present in any of the two meetings. Kuldip Singh (D.W. 28) was admittedly present in the two meetings. He denied that any such words were uttered by the Chief Minister. He very much stated that he never arranged for the two meetings. His nephew Randhir Singh was not present in these meetings. The Chief Minister, according to the respondent, had said that the Congress had unified small States and had formed a compact province which is the present Himachal Pradesh. The party had done good work for the last 25 years and its candidate should be made successful in the election. No exception could be taken to this language used by the Chief Minister. Kuldip Singh also stated that Khazan Singh had told him that the Chief Minister was to arrive and he had to address meetings at Namhol and Chakoh. The respondent himself had not fixed the place or the timing for the meetings. Amar Nath Bajwaria (P.W. 23) who is a permanent secretary of the Himachal Pradesh Congress Committee (Simla) came to state that none of the candidates including the respondent had asked the Chief Minister for undertaking the tour within their constituencies. He proved the tour programme (Ex. D. 21) of the Chief Minister. A copy of this tour programme was no doubt sent to all the candidates including Kuldip Singh. As the witness stated the Himachal Pradesh Congress Committee does send loudspeakers etc. for public meetings.

With this evidence on the record it is not proved that Dr. Parmar at all stated in the manner suggested by the petitioner. Whatever he is supposed to have stated in the two election meetings appears to be quite justified and no exception could be taken to that. While addressing such meetings, he could not be considered to be an agent of the respondent.

While dealing with the case relating to the visit of the Prime Minister, I would have occasion to deal with the desirability of Ministers and high dignitaries of political parties to address public meetings organised for such success in the elections.

As to the Namhol meeting the petitioner no doubt produced a few witnesses but I am not convinced by their statements. Sant Ram (P.W. 24) is supposed to be present at Namhol. He admitted that the Congress party had arranged for the meeting. He reiterated the allegation made in the petition that the Chief Minister stated about the keys of the treasury and about the development work which was not to be done in case the Congress candidate was not returned to power. He

also stated that the Government publicity Department had arranged for the microphone at Namhol. The witness is highly interested in Sankhyan because both of them had formed a party for the election which they named as Janta Party. The witness himself was Chairman of that Janta Party. Although he could not tell English dates of festivals which fall during the course of an year, yet he remembered the date of this meeting. The speech delivered by Dr. Parmar was noted anywhere by the witnesses or anybody else. Daya Ram D.W. 25) also admitted that the meeting was arranged by the Congress party. Besides stating which the Chief Minister said in the meeting the witness went on to say that Kuldip Singh had arranged for the loudspeakers etc. The witness came to court without receiving any summons. He could not name the English calendar months but still remembered the date of that meeting. He did not remember if the Chief Minister had also stated that during the Congress regime much development work was done in the constituency. Very significantly the witness admitted that there are two factions in his village one led by Megha and the other led by Kirpa. The witness belongs to the former. His party wanted the consolidation proceedings to be stopped in the village and Sankhyan when he was Deputy Minister got these proceedings cancelled. This is the obligation he received from Sankhyan and so he has come to support him. Budh Ram (P.W. 31) and Dhannu (P.W. 32) were not present in the Namhol meeting but came to state for the announcement made by Kuldip Singh for that meeting. According to them he was announcing on loudspeakers that the Chief Minister was to arrive on 18-2-1972 and Shrimati Indira Gandhi four days thereafter. Kuldip Singh had denied about this announcement. The witness Budh Ram could not point out as to who were occupying the jeep from where the announcement was made. The witness came by himself and was not summoned by the petitioner. Similar is the statement of Dhannu (P.W. 32). The witness was cross examined 'as to the 'party bandi' in the village. He admitted that there was some dispute regarding consolidation proceedings. Sankhyan helped the witness inasmuch as the consolidation proceedings were stopped in village. He did not receive any summons but still came to court and gave his statement not only on the announcement but also produced an unsummoned election poster which somehow was found lying in his pocket at that time. Sankhyan (P.W. 37) admittedly could not improve upon the statement of these witnesses, because he was not present in the two meetings. However, he also stated about the announcement made by Kuldip Singh which does not appear to be correct. At any rate, mere announcement would not make Dr. Parmar an agent of the respondent.

It is, therefore, evident that the petitioner has also failed to prove his case of undue influence with reference to Namhol meeting whatever he alleged regarding the speech delivered by Dr. Parmar is not borne out from the record.

The petitioner then contended that assistance of government servants was obtained by the respondent in connection with the visit of the Chief Minister and at Chakoh and Namhol and also in connection with the visit of the Prime Minister Shrimati Indira Gandhi at Bilaspur. In fact the plea regarding the assistance of government servants in relation to the visit of the Chief Minister was not taken in the petition. However, reference to that plea was made during the course of arguments. It was stated that the respondent came to attend the meetings in the very jeep occupied by the Chief Minister.

The government officers also toured within this area of meetings in connection with the visit of the Chief Minister.

As regards the visit of Shrimati Indira Gandhi, it was pleaded that the respondent received her and garlanded her, that he was introduced to the public from the dias of the meeting by the Chief Minister in the presence of the Prime Minister, that he remained seated over the dias while the speech was being delivered by the Prime Minister and that the Congress symbol was spread out below the dias to give the impression that the Prime Minister was addressing the election meeting in favour of the Congress. It is further pleaded on behalf of the petitioner that a helipad was constructed at a considerable cost for the landing of the Prime Minister. Similarly arrangements were made for dias etc. and purchases were made from the market especially of Khadi. The Government officials were present and one Chhattar Singh, Dy. Director, Public Relations was even announcing from the stage that the Prime Minister was to arrive and the people should wait for her. It is further pleaded that the respondent himself made the announcement in the village that the Prime Minister was to arrive and that she was to address the meeting on 22nd February, 1972, at Bilaspur. Another specific allegation has been made that people were brought to attend that meeting in government trucks and thus assistance of the Government servants was obtained.

It is evident that all these pleas make a reference to sub-clauses (2) and (7) of section 123 of the Act. According to the petitioner, the corrupt practice of undue influence by the presence of the Chief Minister and the Prime Minister was committed and Assistance of government servants of gazetted rank was obtained and procured in furtherance of the election prospects of the respondent.

I shall not proceed to give a resume of evidence, both documentary and oral, in respect of these pleas.

The Congress pamphlets which indicated the visit of the Prime Minister and also contained an appeal to voters are Ex-P. 15, 19 and 20. No exception could be taken to these pamphlets because Shrimati Indira Gandhi belonged to the Congress party and as a political leader she was entitled to issue the appeal to the voters. Ex-P. 18 is a cash memo which proves that some Khadi was purchased by the District authorities and perhaps the Khadi cloth was used for setting up the stage. When the Prime Minister was visiting, some arrangement was bound to be made and the District authorities were required to make that arrangement. A solitary case of purchase of Khadi, in my opinion will not amount to such an assistance which would invalidate the election. The District authorities were not agents of the respondent. Latter could not be held responsible for this expenditure made by the District authorities.

As regards the oral evidence the petitioner produced official witnesses who are Brijendra Parmar, Assistant Engineer (P.W. 12), Lal Chand Mehrotra, Assistant Incharge, Public Relation Department (P.W. 14) Sand Ram Verma, Clerk in the same office (P.W. 15) and Ved Parkash, Salesman, Khadi Ashram, Bilaspur (P.W. 27). Brijendra Parmar (P.W. 12) of course stated that the expenditure regarding the preparation of the helipad and also stage etc. were made from the common head of account. As I have already stated Shrimati Indira Gandhi never ceased to be the Prime Minister of India. Therefore, in respect of her visit to Bilaspur, her official status could

not be separated from the political status which she naturally commanded. As Prime Minister of India she was required to be received by the District authorities and proper arrangements for her stay etc. were to be made. In that connection the helipad was to be constructed for her safety. Similarly, the stage was also needed to be prepared from where she could address the meeting. Lal Chand Mehrotra (P.W. 14) stated about the tours conducted by Chatter Singh, Deputy Director and others of the Public Relation Department. In fact it was a part of duty of these officials to have covered the tour of the Prime Minister for news on the radio and otherwise. According to Lal Chand Mehrotra, it was an official tour of the Chief Minister as well as of the Prime Minister. That is why the installations regarding public address system etc. were made and the expenditure was met from the government heads. Sant Ram Verma (P.W. 15) gave a similar statement. Ved Parkash (P.W. 21) stated about the purchase of Khadi at a price of Rs. 174.90 on 21-2-1972 at the instance of the Deputy Commissioner, Bilaspur. He proved the cash memo. (Ex. P. 18). Chet Ram Fauji (P.W. 20) stated that Kuldip Singh got published an appeal for that meeting which was addressed by Shrimati Gandhi. He stated that the four candidates of the District occupied the dias from where the Prime Minister addressed the meeting. He could not give details of that jeep from which the announcement was made. He could not testify that Kuldip Singh occupied that jeep and actually made the announcement. The witness stated significantly that he had come by bus and paid bus fare. Thus he denied that any trucks were deployed to carry the people for the meeting. Sant Ram (P.W. 24) also stated about the announcement made by Kuldip Singh in the village about the meeting. He further stated that the Deputy Director, Chatter Singh was telling the people from the dias that the Prime Minister was delayed and would be arriving soon. The Chief Minister introduced the candidates to the Prime Minister and during the course of her speech the Prime Minister stated that the Congress candidates should be made successful in the elections. As I have already pointed out the witness is a close associate of Sankhyan as both of them have formed a Janta Party. Daya Ram (P.W. 25) stated that the Chief Minister had told in the meeting at Namhol that the Prime Minister was to arrive at Bilaspur on 22-2-1972 and that the people should go and attend the meeting. No exception could be taken to this statement. Krishan Dass (P.W. 26) had gone to hear the speech of the Prime Minister. He said that he went there in a truck which belonged to the Government. He also stated that Chatter Singh, Deputy Director was making the announcement and that the Chief Minister introduced the Congress candidates to the Prime Minister. The witness is a close neighbour of Sankhyan and Naruia Mal who is brother of Sankhyan is Up-Pradhan in the same Gram Panchayat of which the witness is a member. He could not be classified as an independent witness. When asked about the details of the truck he could not give any information. He could not even name the driver. Budh Ram (P.W. 31) came to state for the announcement made by Kuldip Singh about the meeting to be addressed by Shrimati Gandhi. He could not name the persons who were occupying that jeep when the announcement was made. He came as an unsummoned witness and appeared to be interested in Sankhyan. Dhannu (P.W. 32) also stated for the announcement made by Kuldip Singh. As his statement indicates there is 'party bandi' in the village and he owed an obligation to Sankhyan in connection with the consolidation proceedings. He can hardly be considered an independent witness. Dalip Kumar (P.W. 34) came to prove the photographs which

were taken at that occasion. However, the witness did not himself take the photographs. Somebody brought to him the negatives which he printed and gave them to Sankhyan. He is hardly a material witness. Sankhyan (P.W. 37) was himself present in the meeting addressed by the Prime Minister. He stated about the announcement made by the Kuldip Singh for that meeting. He also stated that government officials had arranged for that meeting. Chatter Singh was making the announcement from the dias. He told about the introduction of Congress candidates. Shrimati Gandhi had told that the Congress candidates should be voted in the election. According to the witness, Kuldip Singh and other Congress candidates were all along present over the dias. The statement hardly improves the case of the petitioner. The petitioner inferred that Kuldip Singh must have requested Dr. Parmar to invite Shrimati Gandhi for that meeting. There is in fact no basis for this presumption. No such talk took place in his presence and none told him either that Kuldip Singh had made that request. According to Sankhyan when the announcement was made by the Kuldip Singh for that meeting he was accompanied by Mathia Ram. This witness was not produced by Sankhyan, and as such his statement remained uncorroborated. Sankhyan, however, admitted that the visit of Shrimati Gandhi was in her capacity as the Prime Minister of India.

Now a word about the respondent's evidence regarding the visit of Shrimati Indira Gandhi. Kishori Lal Tadu (D.W. 9) and Sita Ram (D.W. 15) both M.L.As. from Bilaspur were no doubt present in that meeting. Tadu stated that Shrimati Gandhi visited in her capacity as Prime Minister of the country. The staff of the Prime Minister had arrived before. Chatter Singh, Deputy Director, Public Relations was no doubt present at that occasion. As I have stated before it was the duty of Chatter Singh to be present there. Sita Ram (D.W. 15) admitted that they had received the Prime Minister at the helipad and had garlanded her. The candidates were made to sit on the dias and the Prime Minister spoke from there. The Congress election symbol was of course pasted on the dias. Bajwaria (D.W. 23) who is the permanent Secretary of the Congress stated that the H. P. Congress Committee had not invited Shrimati Indira Gandhi for this election tour. In fact she was touring throughout the country and had herself chosen to come to Bilaspur. No request was received from Kuldip Singh for the visit of the Prime Minister. The statement proves that Kuldip Singh cannot be stated to have appointed Shrimati Gandhi as his agent for election purposes. Randhir Singh (D.W. 27) similarly stated that she visited in her capacity as Prime Minister of India. He denied that Kuldip Singh or he made any announcement for the visit of the Prime Minister. Kuldip Singh respondent (D.W. 28) similarly denied that any such announcement was made by him or by Randhir Singh. In fact this constituency started at a distance of about 12 miles from the spot from where the Prime Minister addressed the meeting. Therefore, the visit of the Prime Minister was not essentially meant for Kuldip Singh. Kuldip Singh further stated that he did not receive any intimation from the Himachal Pradesh Congress Committee in respect of the visit of the Prime Minister or even of the Chief Minister. The Prime Minister toured throughout the country. She did not come to Bilaspur particularly to canvass support for Kuldip Singh.

In order to succeed in his plea under sub-sections (2) and (7) of section 123 of the Act, when obviously the respondent did not invite Dr. Parmar or Shrimati Gandhi to address these meetings, the petitioner will have to

prove that these two political leaders were the agents of the respondent. There is absolutely no evidence that the respondent obtained or procured the assistance of the government servants. Similarly it cannot be said that the mere presence of the Chief Minister or the Prime Minister caused any undue influence upon the voters. There is not even an iota of evidence to indicate that any elector was influenced by the meetings so that he voted in favour of Kuldip Singh, though he formerly intended to vote for Sankhyan. Therefore, neither of the Chief Minister nor the Prime Minister were the agents of the respondent, nor any undue influence was caused by that in the furtherance of the prospects of the respondent. It is abundantly clear that Dr. Parmar as well as Shrimati Ghandi never ceased to hold the offices of the Chief Minister of the State and Prime Minister of India respectively. It was difficult to say without support of evidence, that these political leaders visited Bilaspur exclusively to address election meetings. Their official capacities cannot be separated from the political capacities. They might have done some official work for, the denial of which, no evidence has been procured by the petitioner. It is manifest political leaders are not debarred from addressing public meetings in furtherance of the case of their candidates. While holding public offices, they are also required to carry along with them their paraphernalia which necessarily mean person in government service. The candidate cannot be held to be guilty of corrupt practice merely because the Chief Minister or the Prime Minister addressed public meetings where at they canvassed support of his candidature. Though public servants and ministerial officers are not to take part in public affairs or participate in elections, the interdict does not apply to Ministers of government. The Ministers, however, are not entitled to misuse their official position in any manner in furtherance of the election prospects of the candidate of their party or otherwise act in any manner which is not consistent with the Act. Besides all that, in my opinion, they are within the bounds of their duties to go and address public meetings. One cannot deny that the essential basis of the working of a responsible government is the existence of the party system. It must be remembered that in our country there is a responsible system of government, both at the Centre and in the States. The selection of candidates for the election and education of the electorate are the main functions which a party has to perform so that it is returned to power. Public meetings are a very important part of its organisation. Therefore, if the Ministers address public meetings, there is no harm so long as they observe the conditions laid down in the Act.

A few cases need be noticed at this stage. In *Triloki Singh vs. Shivrajwati Nehru and others*, (16 E. L. R. 234) the right to canvass by a Minister was conceded as they are leaders of the political party which had a majority in the Legislature and which is to maintain that majority in order to function effectively. Just as they have a right to vote and to stand as a candidate they also have a right to canvass for themselves and for the other candidates set up by their party. If they ask the electors not to vote for any other candidate than their own party candidate they cannot be said to interfere with the free exercise of the electoral rights of voters. In this case nothing further seems to have been done by the Chief Minister as well as the Prime Minister. In *Triloki Nath vs. Shivrajwati Nehru* (Supra) it is also held that a Minister has not only a right to canvass for the candidate supported by his party but he can canvass without diverting himself of the paraphernalia of his office while so canvassing. The mere fact that the Mini-

sters went to the election meetings in the State cars flying national flag or were accompanied by their orderlies or *Shadows* cannot be held to amount to their using undue influence over the voters within the meaning of clause (2) of Section 123. In *Briesh Mishra vs. Ram Nath Sharma and others* (17 E. L. R. 243) the words "obtain" and "procure" used in section 122 (7) have been explained. These words *cannot purpose or effort behind* the action of the candidate and do not include passive receipt of assistance. There is absolutely no evidence that Kuldip Singh obtained or procured the assistance of the Chief Minister or the Prime Minister or other government officials in furtherance of his election prospects. If he consented to go to the meeting and even welcomed the Prime Minister, that would not amount to obtaining or procuring assistance from government servants. In *Moti Lal vs. Mangla Prasad and other* (A. I. R. 1958 A, 794) the word "obtain," in section 123 (7) was held to connote purpose or effort behind the action of the candidate. Therefore a mere passive receipt of assistance without the candidate being even conscious of the fact that the assistance has been rendered, will not be sufficient. In *Dal Chand Jain vs. Nariyan Shankar Trivedi and another* (1969 S. C. cases, III, 685) their Lordship were considering a case under section 123 and referred to a publication for which the candidate had not raised any objection. The observation was that mere omission to raise any objection does not establish his consent. Extending the analogy further, I can hold in this case, that mere omission on the part of Kuldip Singh to object to the visit of the Chief Minister or the Prime Minister would not amount to his consent for their visit. This would be material on the question of agency.

There is no evidence that any elector was influenced by the speeches delivered by the Chief Minister or the Prime Minister. There can be no presumption in this regard. Some evidence could be procured to indicate that so many voters did not vote in favour of Sankhyan because of these speeches or because of any conduct displayed by the respondent in the meeting addressed by the Prime Minister. As to the trucks, I have already indicated that there is hardly any evidence worth the name. As such people were not taken to the meeting in the government trucks.

The result is that the corrupt practices under sub-sections (2) and (7) of section 123 of the Act in connection with the meetings addressed by the Chief Minister or the Prime Minister were not made out.

The petitioner referred to election pamphlets or posters marked Ex. P. 2. and P. 3. and canvassed that corrupt practice under section 123 (4) of the Act was committed. Besides, he also pleaded that section 127A was also not complied with, in as much as a declaration as to the identity of the publisher thereof signed by him and attested by two persons to whom he is personally known was not delivered by him to the printer in duplicate. As a result of this non-compliance with the provisions of the Act, according to the petitioner, a ground was made out under section 100 (d) (iv) and the result of the election in favour of the respondent was materially affected.

I shall first take up the election poster (Ex. P. 2.) which was published by several persons namely Hiru Ram, Kamla Devi, Rattan Singh and Dhannu. This poster was printed in Himdeep Printers and Publishers

a concern of Shrimati Satyawati Dang, General Secretary of the Congress. In this election poster insinuations regarding personal character and conduct of Sankhyan were made. A letter dated 6.7.1971 said to be written by the Chief Minister to Sankhyan is quoted which according to the latter was never sent. The poster further recites that Sankhyan was guilty of several charges and that is why he has been turned out from the office of the Deputy Minister. A reference is also made to Russian Tractor which were allotted by Sankhyan to his own son. A mention is also made about loans under Soil Conservation Scheme which were obtained by Sankhyan and his relations to the tune of Rs. 68,000/- It is also mentioned that Sankhyan transferred his own son to Chopal so that he could look after his cultivation work. With these allegations the electors were asked to consider if they would vote for Sankhyan. According to the petitioner these allegations were false and which the respondent believed to be false or did not believe to be true. He further contended that the false statement was reasonably calculated to prejudice the prospects of the petitioner. According to the petitioner, the persons purported to have published the poster were all faked ones and fact the respondent had published it. At any rate, these persons were agents of the respondent. It was even pleaded that Himdeep Printers and publishers were also his agents. Some witnesses were also examined to prove that the respondent publicised this poster in villages immediately before the election.

There can be no denial that the poster (Ex. P. 2) does contain allegations in relation to the personal character and conduct of Sankhyan who was a candidate in the election. There is severe dispute as to whether Himdeep printer and publishers or Hiru Ram and others could be the agents of the respondent. It is manifest the respondent himself never got published this poster. In the alternative it was contended on behalf of the respondent and some evidence was produced in support thereof that the statements made in the poster were not false and at any rate it cannot be stated that the respondent believed them to be false or did not believe them to be true. Besides this there is absolutely no evidence that these statements at all prejudiced that prospects of Sankhyan's election.

The original of the poster (Ex. P. 2.) is Ex. P. 10 which contain the signatures of the persons who published it. The Himdeep Printers and publishers admitted that they had printed three thousand copies of this poster and sent the copies thereof to the District Magistrate, Simla on 3.3.1972 (Ex. P. 11) The respondent filed Ex. D. 13, D. 15 and D. 16 which reproduced the minutes of the meetings of the Tractor Allotment Committee and these meetings took place on 3rd and 22nd September, 1971. In all 104 tractors were received for distribution. It is clear from the proceedings that three tractors were allotted to Bilaspur district out of which one was allotted to Jitendra Kumar Sankhyan, who is the son of the petitioner. As evident from these documents, Shri Sankhyan being Deputy Minister was the Chairman of that Committee. on 16.10.1971 (Ex. D. 14) the General Manager of the Agro-Industries Corporation wrote to Jitendra Kumar Sankhyan that he should take delivery of the tractor allotted to him by the Committee. These documents prove that the statement regarding tractor allotment was not false as made out in the poster (Ex. P. 2). At any rate there was no reason for the respondent to believe it to be false for could it be stated that he did not believe it to be true. Similarly,

there is documentary evidence that the letter dated 6.7.1971 quoted in the poster (Ex. P. 2) was in fact written by Dr. Parmar to Sankhyan (Ex. D. 22). In this letter it was mentioned, that Sankhyan had taken industrial loan of Rs. 24,000/- in partnership of his brother Narauja Mall and this loan he had not started paying. It was further mentioned in the letter that Sankhyan managed for his relations and friends other loans including soil conservation loans. The Chief Minister had sought clarification from Sankhyan. Thus the statement regarding the letter of the Chief Minister made in the poster (Ex. P. 2) could not be stated to be false or at any rate the respondent could not believe it to be false nor could it be said that he did not believe it to be true. Since there were allegations of various loans taken by Sankhyan, the statement was published in the poster (Ex. P. 2) that Sankhyan had taken various loans and was not paying them. The documentary evidence itself disproves the corrupt practice under section 123 (4) as alleged by the petitioner.

The petitioner gave the names of 13 persons Ganpat and others who had distributed these posters (Ex. P. 2 and P. 3) in various villages. Out of them 3 witnesses Krishnoo (P. W. 3), Dila Ram (P. W. 5) and Joyti Ram (P. W. 18) were examined in Court. The rest were given up, one of these witnesses Nand Lal (P. W. 26) was examined by the respondent. Since the oral evidence regarding the publication of the posters (Ex. P. 2., and P. 3) is common, I shall dispose it of at this place and the decision will govern the question regarding publication of both the posters. Krishnoo (P. W. 3) stated that the respondent appointed him to do his election work and to canvass for him. On 2-3-1972 the election posters were given by the respondent for distribution. The witness stated that he was paid Rs. 1,200 for the work. At that time when the posters were given, Paras Ram (P. W. 4) was present. However, Paras Ram (P. W. 4) denied that any such posters were given to the witness. Krishnoo is illiterate and so he could not testify as to whether these very posters distributed by him. He could not tell as to how many posters were given to him for distribution. He stated that Paras Ram, Dila Ram and Khazana Ram stayed with him in a Dharamsala when they all came to give evidence in this case. This fact has been denied by the other witnesses. Paras Ram (P. W. 4) is not named in the list given by the petitioner. He belied Krishnoo (P. W. 3) by saying that no poster was given to him for distribution. He also denied that he had stayed in a Dharamsala alongwith Krishnoo as stated by the latter. Dila Ram (P. W. 5) stated that he was given Rs. 200 by Randhir Singh to distribute the posters (Ex. P. 2. and P. 3). There was no such plea taken in the petition for which objection was raised by the learned counsel for the respondent. Khazana Ram (P. W. 6) is again not named in the list given by the petitioner. However, he stated that he saw Dila Ram distributing these election posters. He is also illiterate and so he could not identify the posters. Dila Ram never gave him any such posters. He looked at the colour of the posters and on that ground stated, that Dila Ram (P. W. 5) was distributing them. The statement is hardly worth credence. Hari Om Prakash Pande (P. W. 16) is the Manager of the Himdeep printers and publishers. He affirmed that these election posters were printed at his press. It is evident that any body can get printed an election poster at his press. The payment for printing the (Ex. P. 2) was made by Rattan Singh whose name appears printed at the bottom of the poster. It is evident that the poster (Ex. P. 2) does not bear the congress symbol and

so it was a private publication. According to the witness, the Congress party never got the poster (Ex. P.2) printed. Similarly Kuldeep Singh or his agent never asked him to print either of the posters (Ex. P.2 and P.3). Therefore, the agency for Kuldeep Singh is disproved by the statement of this witness. Joyti Ram (P.W.18) stated that he distributed these posters in the villages. He produced four of such posters in the court. He is also illiterate and cannot read these posters. Although he was never asked to bring these posters yet he could produce them in the court because he found them lying in the pocket. According to him, the posters were lying in his pocket from a period of six months. No other paper besides these posters was found lying in his pocket. The witness thus produced these posters in a *superstitious* manner and the only inference which one can draw is that he is a stark supporter of Sankhyan. A suggestion was put to him that he had received a bribe of Rs. 500 from Sankhyan for giving the statement. Sunder Ram (P.W.19) came to depose that these posters were given by Kuldeep Singh for distribution. But he stated significantly that all the election posters contained the Congress symbol printed on them. It means that the election poster (Ex. P.2) was never given by Kuldeep Singh for distribution. Chet Ram (P.W.20) is not named in the list given by the petitioner but none-the-less he stated that Kuldeep Singh gave him these posters for distribution. He gave them to Joyti Ram and did not distribute them himself. He stated that Kuldeep Singh had given Rs. 500 to Joyti Ram for this work. The witness, as he stated, happened to board a bus and a talk started with Kuldeep Singh who was found sitting in the bus. Kuldeep Singh asked him as to whether he knew him and when the witness answered in the affirmative he was appointed as his worker for the election. When asked about the date when this talk took place the witness showed ignorance. It is difficult to believe that Kuldeep Singh would have appointed him election worker just because he saw him sitting in the bus. It is also impossible that a sum of Rs. 500 should have been paid in the presence of a stranger for this purpose. Fattu Ram (P.W.22) started saying about a election meeting which took place at Nainadevi. According to him Shrimati Satyawati Dang had stated in the meeting that the character and conduct of Sankhyan would be disclosed to the people. An inference was drawn by the learned Counsel that she was referring to the election poster (Ex. P.2) Firstly there is no plea regarding this in the petition and secondly besides the statement of Fattu Ram (P.W.22), there is no other evidence to substantiate the allegation. The witness himself was not summoned and came by himself to state in favour of Sankhyan. He is illiterate and cannot read these posters. Fattu Ram (P.W.22) also stated that the election posters were distributed by Kuldeep Singh in that meeting. According to witness the election posters so distributed did not contain the Congress symbol. The statement is absolutely incorrect. Besides Ex. P.2 the other poster did contain Congress symbol. Kuldeep Singh is said to have met the witness by chance and he distributed these posters to him. The statement of Fattu Ram is hardly convincing. Brij Lal (P.W.23) stated that one Devi Ram distributed these posters in his presence. He stated that on the election poster (Ex. P.3) there was no Congress symbol which is entirely an incorrect statement. According to him the poster (Ex. P.2) contained the Congress symbol which is again a wrong statement. Sant Ram (P.W.24) came to state that Dila Ram was distributing the poster (Ex. P.2) which contained material against Sankhyan. The witness is a close associate

of Sankhyan, being Chairman of Janta party of which Sankhyan is a founder member. As such he was interested to depose in favour of the petitioner. Sankhyan (P.W.37) stated that he had not received any letter from Dr. Parmar. The statement is decidedly incorrect because Ex. D. 22 is the letter which was delivered to him. He stated that he was disreputed and the electors did not vote for him. Mere saying would not do and Sankhyan was required to produce some evidence in support of the allegation. He did not produce such evidence. He named several persons to whom these posters were distributed. None of them was produced by him. Nand Lal (D.W.26) whom he named was, however, produced by the respondent. According to Sankhyan he had seen Dila Ram distributing these posters. But in his affidavit he verified the plea of distribution on the basis of this belief and not on the basis of his knowledge. This is significant and indicates that he had never seen anybody distributing these election posters. Sankhyan admitted that the Congress party had asked the Ministers and Deputy Ministers to disclose their assets and liabilities. It can be inferred that in that connection Dr. Parmar wrote to him the letter dated 6-7-1971. He admitted in so many words that he did take loans of several categories from the government which he got sanctioned either for himself or in favour of his near relations. About the tractor, he admitted that it was allotted in the name of his son Jitendra Kumar Sankhyan. Three Russian tractors were actually received of which one was allotted in favour of his two sons Swatantra Kumar and Ravindra Kumar. Admittedly he was Chairman of that Allotment Committee. He stated that a subsidy Rs. 70,000/- was given to his family members under the soil conservation scheme. He agreed that he purchased some land in Chopal and his son was transferred to that place, although under the orders of the Chief Minister. Sankhyan admitted that he had taken Rs. 24,000/- as industrial loan in partnership of his brother Nauria Mall for setting up a rice mill. He clarified his statements by saying that in fact this loan was taken by Nauria Mall and he was only a surety for him. He chose to forget if any payment was made out of this loan to the government. He further admitted, that his sons had taken horticultural loans. Similarly, his stepmother Shrimati Reshmoo had also taken a loan from the Government. Nauria Mall also took horticultural loan and so did Shrimati Sheila Devi wife of Nauria Mall. He gave out different figures of such loans taken by his near relations and the total is considerable. He agreed that at least some of these loans were taken by his family members during his regime as Deputy Minister. He does not remember if during his regime as Deputy Minister any part of these loans was paid by any of his relations. When asked about the distribution of posters (Ex. P.2. and P.3.) he stated that he did not see Kuldeep Singh distributing them. He had no talk with any voter so that he could infer that he did not receive votes because of the posters (Ex. P.2 and P.3). At the same time he named Dhani Ram, Sunder Ram and Mahant Ram and Prem who were his election workers and they told him that people would not vote in his favour because of the distribution of these posters. None of them was produced by him. The respondent has also produced some witnesses in rebuttal of the case in this regard, set up by the petitioner. R. N. Pant (D.W.3) is Deputy Director, Soil Conservation, Bilaspur and he brought the record indicating the loans and subsidies granted to the petitioner and his family members. He stated that a subsidy was sanctioned to the petitioner to the extent of Rs. 37,458/- and in addition to that a loan was also sanctioned to the

petitioner in the like amount. He also stated that there might be other similar smaller schemes of soil conservation for which the sons of the petitioner were given loans and subsidies. B. R. Sharma (D. W. 4) is the Inspector, Horticulture and he stated about the horticulture loans given to the petitioner and his family members. He named several relations of the petitioner and each of whom was given a loan of Rs. 2,750/-. In all there were 7 such family members who were given the loans. Gian Prakash (D. W. 5), Manager, Agro Industrial Corporation very much stated for the allocation of Russian tractors to the son of the petitioner, Sankhyan who was the Chairman of the allotment Committee, being Deputy Minister, Agriculture. He stated about the meetings of the Committee which took place on 3rd and 22nd September, 1971. The only Russian tractor allotted to the Bilaspur district was given to the son of the petitioner, Tulsi Ram (D. W. 6) of Namhol stated that the posters (Ex. P.2 and P.3) were never distributed by the respondent in Namhol or near about. R.S. Sachdeva (D. W. 13), Head Clerk in the office of the Deputy Director of Agriculture also stated that about the distribution of tractors. Swaran Singh (D. W. 14) and Prakash Chand (D. W. 16) were the polling agents and counting agents of the respondent Kuldip Singh. They stated that they have never distributed the disputed election posters nor saw anyone distributing them within the constituency. Similarly Kashi Ram (D. W. 17) was the counting agent of Kuldip Singh. He too had not seen the disputed election posters being distributed within the constituency. He was the election worker of Kuldip Singh in the constituency and must have come across the distribution, if any. Tulsi Ram (D. W. 18) and Jagdish Singh (P. W. 21) come from the same constituency. They never saw the posters being distributed by any one within the constituency. Bajwaria (D. W. 23) permanent Secretary of the H. P. P. C. C. was shown the poster (Ex. P.2) and he stated that the Congress never got the same printed or distributed. R. C. Kaushish (D. W. 24), private Secretary to the Chief Minister came to state about the letter dated 6-7-1971 which the Chief Minister had written to Sankhyan. He proved the despatch of this letter and produced the peon book which indicated that the letter was received at the office of Sankhyan. Nand Lal (D. W. 26) is the person named by the petitioner as having distributed the posters. He appeared on behalf of the respondent and stated that the posters were never distributed either by him or by any body else within the constituency. Randhir Singh (D. W. 27) denied that he made any payment of the person named by the petitioner for distribution of these posters. He too did not see these posters being distributed by any one. Kuldip Singh, respondent (D. W. 28) denied the distribution. The persons who actually got printed these posters were not his agents. Similarly the Himdeep Printers and Publishers could not be his agents. He denied that any amount was paid for distribution of the posters. According to the respondent the press is owned by Shrimati Satyawati Dang in her personal capacity and not in her capacity as the General Secretary of the Congress. The respondent does not know Hiru Ram and others who got the posters printed. They were not his election workers. The printing was not done with his information or consent. Similarly the Congress never got these posters printed or published. He denied that he gave these posters to any body for distribution in the village.

It is, therefore, evident that the person who printed or published the poster (Ex. P.2) were not the agents

of the respondent. It is also borne out by evidence that whatever was stated in this poster was not false and at any rate if it is considered that the respondent, got the poster published it cannot be stated that he never believed the allegations made in the poster to be false or did not believe them to be true, within the meaning of section 123 (4). There is absolutely no evidence that the poster was reasonably calculated to prejudice the prospects of Sankhyan's election. Regarding the publication, it is not proved that the posters (Ex. P.2 and P.3) were at all published at the instance of the respondent. It may be that this poster (Ex. P.2) was surreptitiously distributed by some agency inimical to Sankhyan and obviously the respondent could not be held responsible for such agency. It may true to contend that the posters were printed for publicity otherwise these would not have been obtained from the press. The crux of the matter would lie in the responsibility that can be fixed upon the respondent or his agents. But such a responsibility cannot be fixed as is clear from the evidence.

Now I shall deal with the poster (Ex. P.3). This is an appeal made by Raja Anand Chand of Bilaspur in favour of the Congress candidates including the respondent. The appeal was undoubtedly got printed by the H. P. C. C. and the printers were Himdeep Printers and Publishers (Simla). Obviously, the appeal was made for publicity and perhaps such a publicity must have been given. This would only be presumption because the witnesses regarding the publicity produced by the petitioner, for reasons already stated cannot be believed. Bajwaria (D. W. 23) admittedly got the poster (Ex. P.3) printed from the Press. His letter dated 28-2-1972 (Ex. P.8) makes that fact clear. Himdeep Printers also sent on 3-3-1972 a declaration together with a copy of the document printed to the District Magistrate, Simla (Ex. P.9). On 7-2-1972 (Ex. D.13) Shrimati Satyawati Dang, General Secretary of the H. P. C. C. wrote a letter to Raja Anand Chand and requested him to issue an appeal in favour of the Congress candidates. In fact the Raja had issued such an appeal in the 1967 election (Ex. LCI/O). After waiting for a fortnight Shrimati Dang again set a letter to the Raja on 22-2-1972 (Ex. D.19) saying that a reply to the first letter had not been received from the Raja and that a presumption arose that he had no objection if the appeal was issued in his name in support of the Congress candidates. The dak entry for this letter was made in the register on 22-2-1972 (Ex. D.20). It was thus natural for Shrimati Dang to have believed that the Raja would have no objection to the issuance of the appeal. When her letter dated 7-2-1972 remained unreplyed for about two weeks she repeated the request and further made it clear that the organisation would presume that the Raja had no objection for the issuance of the appeal. Thereafter, the appeal was got printed at Simla by Bajwaria and subsequently the distribution must have been done.

The witnesses of the petitioner, so far as they stated that the respondent paid money for distribution of the poster (Ex. P.3) or were asked to distribute it without payment cannot be believed to be stating the truth. Kishnoo (P.W.3) stated like that but as would be clear from the discussion which I shall hereinafter make for the payments of various alleged sums of money, Kishnoo spoke a lie when he said that Rs.1,200/- were paid to him for distribution work. As such he could not be believed to be stating the truth when he stated that Kuldip Singh gave the poster (Ex. P.3) for distribution. For similar reasons, Paras Ram (P.

4). Dila Ram (P. W. 5), Jyoti Ram (P. W. 18), Sunder Ram (P. W. 19), and Chet Ram Fauji (P. W. 20) cannot be believed that Kuldip Singh or Randhir Singh gave them the poster (Ex. P. 3) for distribution. As regards the influence which the Raja commanded, it may be stated that he is absent from the constituency for the last 14 or 15 years. Except in the election of 1967 when the candidates set up by the Raja had won, during subsequent elections the candidates of the Raja were not a success. In 1962 the daughter of the Raja was herself a candidate for a seat in the Lok Sabha, she lost the election. In 1967 the Raja was a member of the Congress and that is why he published the appeal in favour of Congress candidates. Dila Ram (P. W. 5), Chet Ram Fauji (P. W. 20) and Sant Ram (P. W. 24) admitted all this. Khazana Ram (P. W. 6) could not name any person who was influenced by the appeal issued by the Raja. Hari Om Parkash Pandu of the Himdeep Printers (P. W. 116) of course proved that Bajwaria got the poster (Ex. P. 3) printed from the press. According to this witness, a notice was subsequently received from the Raja saying that he had not asked Bajwaria to get the appeal printed on his behalf. The printing charges were paid by the Congress office. The witness was emphatic in his statement that Kuldip Singh or his agent never asked him to print the Raja's appeal. Jyoti Ram (P. W. 18) stated that he distributed the poster on behalf of Kuldip Singh to Bakshi, Munshi and Budhu. These persons have not been produced by the petitioner. Brij Lal (P. W. 23) who came to state about payment of money further said that the appeal of the Raja did not bear the Congress symbol. The fact is absolutely wrong because the Congress symbol is there. It seems neither any money was paid to him nor any poster was given for distribution. Sant Ram (P. W. 24) belongs to Janta party of which Sankhyan is a founder member and as such he could not be believed when he stated about the distribution of the appeal of the Raja. At the instance of Dila Ram stated to be an election worker of the respondent, Raja Anand Chand was examined on commission. He of course denied that he permitted Shrimati Dang to publish his appeal for the 1972 election. He had issued a notice to the printer. However, no legal step has yet been taken by him against the Congress Organisation or against the press. The Raja admitted that his daughter lost the election

in 1962 and the reason which he attributes is rather strange, because he says that she contented the election against his advice and so she lost. He admitted that he was a member of the All India Congress in 1967. He denied that he received any of the two letters from Shrimati Dang for the issuance of the appeal. He even denied that he issued the appeal (Ex. LCI/O) for the election of 1967. This appears to be an incorrect statement. That appeal was no doubt issued for which Sankhyan admitted. It was in favour of Sankhyan himself who was then a Congress candidate. The Raja took no steps to deny this appeal. One Ram Ditta (D. W. 25) is stated by the Raja to have sent a complaint to him in respect of the appeal (Ex. P. 3). Ram Ditta Mian however, stated that he never sent that complaint to the Raja. It is, therefore, evident that somebody else sent a complaint which was forged in the name of Ram Ditta Mian. The Raja admitted that he lost the election for Lok Sabha in 1957 against the Raja of Mandi who was a Congress candidate. This shows how much influence he commanded in the District. It appears the Raja has some enmity against the respondent. While he was ruling Chief, a complaint was made that irregular jagirs were granted by the

previous ruler. He, therefore, cancelled such jagirs and the jagir belonging to the family of the respondent was also cancelled by him. At any rate, this shows that the Raja is not favourably disposed towards the respondent. Sankhyan (P. W. 37) did not see Kuldip Singh or his nephew Randhir Singh distributing the poster (Ex. P. 3). None of the voters told him that they did not vote in his favour because of the posters (Ex. P. 2. and Ex. P. 3).

As against these witnesses of the petitioner, the respondent produced Tulsi Ram (D. W. 7), Devi Ram (D. W. 8), Dhani Ram (D. W. 10), Jangu Ram (D. W. 11), Krishori Lal Tadu (D. W. 9), Raloo Ram (D. W. 12), Swaran Singh (D. W. 14), Sita Ram (D. W. 15), Tulsi Ram (D. W. 18), Hari Singh (D. W. 22) and Kanshi Ram (D. W. 17) who have stated that the Raja left Bilaspur district 14 or 15 years ago and since then he lost contact with the people. As such the Raja does not command any influence and the appeal (Ex. P. 3) could not have affected the voters. Tulsi Ram (D. W. 6), Kishori Lal Tadu (D. W. 9), Sawaran Singh (D. W. 14), Sita Ram (D. W. 15), Parkash Chand (D. W. 16), Kashi Ram (D. W. 17), Tulsi Ram (D. W. 18), and Jagdish Singh (D. W. 21) who belong to this constituency did not see the appeal being distributed within the constituency. Several of these witnesses were the election workers of Kuldip Singh and they were bound to have come across such an appeal if it was at all distributed. At any rate, Kuldip Singh or Randhir Singh never distributed it. Bajwaria (D. W. 23) brought the dak register and the learned counsel attempted to point out some missing serial number in this register. The argument was that the letter dated 7-2-1972 was perhaps never sent to the Raja. No such inference can be drawn. It is common experience that such registers are not properly maintained in the office. There may be so many reasons why the serial numbers are not to be found in the register. Bajwaria stated that the register was lying in the court itself for a considerable period of time. Some interpolation might have been made at that stage. Bajwaria stated that during the previous election of 1967 the Raja got printed the appeal in favour of the Congress candidate. The usual practice is to ask prominent persons to issue appeals on behalf of the Congress candidates. So there was nothing unusual if the present appeal was obtained from the Raja. Randhir Singh (D. W. 27) as well as the respondent Kuldip Singh (D. W. 28) of course stated that the appeal (Ex. P. 3) was never got printed by them. They further stated that such an appeal was never distributed on their behalf within the constituency. They could not tell if the Congress organisation had received such an appeal for distribution. They cannot be held responsible for such distribution.

It is not difficult to conclude with this evidence that if at all the Congress organisation got printed the appeal (Ex. P. 3), they were not the agents of the respondent. Similarly Himdeep Printers were not his agents. The witnesses regarding the publicity could not be believed to be stating the truth. Since the Raja himself has denied the issuance of the appeal, it may be stated that the appeal itself was false and hence it was a false statement. At the same time the conduct of the Raja indicates that the Congress had no reason to consider that the appeal was false and it could not be stated that the organisation either believed it to be false or did not believe it to be true. In 1967, a similar appeal was

issued by the Raja. In the second letter written by Shrimati Dang, it was specifically written that a presumption would be drawn that the Raja had no objection to the issuance of the appeal if no reply was received. Therefore, it could not be stated Shrimati Dang either believed the appeal to be false or did not believe it to be true. Above all, the respondent was not in any manner responsible for the printing or publication of the appeal. There is overwhelming evidence to prove that the Raja lost his influence in the District. He lives out of the District for the last 14 or 15 years. He himself lost the election in 1957. His daughter lost in 1962. It may be that some of his candidates won the election in 1967. There is absolutely no evidence that any voter was influenced by an appeal in favour of Kuldip Singh. Therefore, there is hardly any evidence to conclude that the appeal was reasonably calculated to prejudice the prospects of the petitioner.

There was a controversy at the bar as to whether the appeal (Ex. P. 3) at all related to the candidature of the respondent, and as such was covered under section 123 (4). In *Sudhir Laxman Heñdre Vs. Shrimati Amrit Dange and others* (AIR 1960, Bom, 249) the expression "candidature" was held to have reference to the qualification of the candidate for being nominated as such in a constituency and to his being so nominated in fact. In *Kanhaiyalal Tiwari vs. Shyam Sundar Naryan Mushran* (15, E.L.R. 285) the word "candidature" was considered narrower in its connotation than "candidate". It means the state of being a candidate and a statement relating to a candidate need not necessarily relate to his candidature. This view was followed in *Shrimati Sarla Devi Vs. Birendra Singh* (A.I.R. 1961 (M. P. 127) and in *Sarla Devi Pathak Vs. Birendra Singh* (20 E.L.R. 275). In all these cases it has been held that the word "candidature" means the state of being a candidate and as such a candidate himself must suffer by the statement or aspersion. The word "candidature" has been used in conjunction with the word "withdrawal" which is decidedly a stage before the person becomes a candidate as such. Even keeping regard to these rulings, the poster (Ex. P. 3) did relate to the candidature of Kuldip Singh. The appeal was no doubt issued at a stage when he had become a candidate but it no netheless referred to his candidature, he being set up by the Raja to contest the election. I cannot, therefore, persuade himself to agree with the learned counsel for the respondent that the appeal is not covered under section 123 (4).

The application of section 123 (4) had been a subject to several decisions of the Supreme Court. The latest are *Raghunath Singh vs. Krishna Chandra Sharma* (A.I.R. 1971 S.C. 1839) and *Mangilal vs. Krishnaji Rao Pawar* (A.I.R. 1971 S.C. 1943). Where it is not proved that the impugned statement was false and was either believed to be false or not believed to be true by the returned candidates and his agents, the statement does not come within the mischief of section 123 (4). In *Dev Kanta Barooah vs. Golak Chandra Baruan and others* (A.I.R. 1970, S.C. 1231) a statement although true yet a little exaggerated was considered with reference to section 123 (4). It was held that the section is not attracted. In *Guruji Shrihari Baliram Jivatode vs. Vithalrao and others* (A.I.R. 1970, S.C. 1841) the expression "calculated" used in section 123(4) was considered. It was held that the word "calculated" means design and denotes more than mere likelihood and imports the design to effect voters. Such a design even by implication cannot be inferred from the evidence. The petitioner never relied upon a likelihood of some harm done to him in the

election. In *Sheopal Singh vs. Ram Pratap* (A.I.R. 1965, S.C. 677) the element of mens rea was considered necessary ingredient to attract section 123 (4). In the facts made out in the present case such mens rea cannot be inferred against the respondent. I, therefore, consider myself on firmer footing when I conclude that a corrupt practice under section 123 (4) is not proved against the respondent.

It was also contended on behalf of the petitioner that compliance of section 127A was not made. It is proved that the respondent cannot be held responsible for the posters (Ex. P. 2 and P. 3). If non-compliance of that section was committed, it was not done by the respondent. Apart from that, any material effect on the election was not proved for such non-compliance. It has been stated that either a declaration or an attestation by two witnesses contemplated under section 127A for these posters was not available. In what manner the election was materially affected because of these irregularities is not explained. Therefore, such a non-compliance of a provision of the Act was immaterial for the election. As such the ground is not sustainable.

The petitioner has given a list of 9 persons, Ganpat, Krishnool, Prem Nand, Budda, Ditoo, Sukh Ram, Jyoti, Gokul and Devi Ram to whom various sums of money were paid by the respondent for distribution of the posters (Ex. P. 2 and P. 3) and also for doing other election work. It is stated that all these amounts were not shown in the expenditure incurred in the election. As such the respondent has incurred expenditure in contravention of section 77 and that was a corrupt practice under section 123 (6) of the Act. The respondent of course denied that any such amount was spent or distributed to the persons specified. It is manifest that if this plea of corrupt practice does not succeed, it would reflect upon another plea regarding publication of the election posters (Ex. P. 2 and P. 3) on behalf of the respondent. These amounts, according to the petitioner, were paid for distributing the posters besides doing other election work. If the distribution of these amounts is disproved, the printing and distribution of the posters on behalf of the respondent is also disproved.

Out of 9 persons specified by the petitioner only two, Krishnool (P.W. 3) and Jyoti (P.W. 18) were produced in the court. The rest were not examined. In respect of payment made to Badda and Devi Ram, however, Brij Lal (P.W. 23) was made to state. Similarly, for the payment made to Prem Nand, Sunder Ram (P.W. 19) was made to depose. In respect of others, there is no evidence on the record.

As regards these payments, two prominent features emerge which made the entire charge of payment highly suspicious. Firstly, as revealed from the evidence, in order to make payment to individual person or persons, some intermediaries were brought in and several names were taken so that a list of witnesses was available to pick and choose at the time of the trial. When payments could be made straightaway to the concerned person, why such intermediaries were brought in is rather a queer phenomenon. The conduct itself is improbable because such payments are always made surreptitiously and unnecessary persons are not made to intermeddle. The obvious necessity of naming so many persons in relation to one and the same payment was there, because the petitioner was not sure as to who should be produced as witness and who should be eliminated with he could only do at the last moment. Secondly, every witness stated invariably that receipts were obtained before payments

were made. Such receipts were neither produced not even summoned from the witnesses. This also makes the very fact of payment highly shady. The evidence points out three specific places where payments were made (1) Laraghat, at the shop of Lala Ram, (2) Jamali at the shop of Lekh Ram and (3) Alikhud at the shop of Munshi Ram. The petitioner thought it essential to name one shopkeeper for each payment, and one of them Lekh Ram (D.W. 20) was examined by the respondent. I shall take up the question regarding payment with reference to each shop where such payments are alleged, to have been made.

The case regarding Laraghat payment stands like this, Dila Ram (P.W. 5) was approached by Kuldip Singh and Randhir Singh. He in return told Paras Ram and the latter went and approached Krishnool, Jyoti and others and brought them to Laraghat. Dila Ram himself never went to Laraghat. Rs. 1,200 were paid to Krishnool and Ganpat etc. and Rs. 500 to Gokal at the shop of Lala Ram. Thus the names of Dila Ram and Paras Ram were taken as intermediaries. Krishnool (P.W. 3) stated that the respondent paid Rs. 1,200 to him for distributing the posters and for doing other election work. The witness distributed the amount to several persons, Gopala, Kripa Ram and Jhambaroo. None of them was examined. Gokal is also not examined although he is stated to have received Rs. 500. According to Krishnool, Paras Ram (P.W. 4) was also present because he had brought them to take the money. Paras Ram, significantly denied that any posters were given to Krishnool and others for distribution. If that was so, what for the payments were made is beyond comprehension. Krishnool did not tell Sankhyan about these payments. He had given a receipt for Rs. 1,200. Lala Ram, at whose shop the payments were made has not been produced. Krishnool stated that he had never asked Kuldip Singh to make the payment to him. Similarly, others also did not demand any payment from the respondent. And still these payments were made without any demand. Paras Ram (P.W. 4) stated that Dila Ram (P.W. 5) approached him and wanted him to bring Ganpat and Krishnool to Laraghat where the payments were to be made. Paras Ram (P.W. 4) significantly, stated that he had never visited the house of Kuldip Singh nor that of Randhir Singh. Similarly, both of them were not on visiting terms, to his house. He had no money dealings with them previously. Dila Ram is not his relation. Still it appears Paras Ram volunteered to do this work for Kuldip Singh and Randhir Singh. He at once agreed to go and call Krishnool and Gokal etc. for this work at the instance of Dila Ram who was by no means his friend or relation. Paras Ram admitted that Krishnool had given a receipt for Rs. 1,200 to Randhir Singh. As I have stated before this receipt was not summoned from Randhir Singh. The witness is known to Sankhyan since long. Like the previous witness he did not tell anybody about these payments. It is not clear how Sankhyan come to know about these payments so that he could produce the witnesses. Dila Ram (P.W. 5) of course never went to the shop of Lala Ram and so the payments were not made in his presence. He was so enthusiastic that he set up a new plea of payment of Rs. 200 made to him by Randhir Singh for the distribution of posters. Such a plea was not taken in the petition, nor any independent evidence exists for this payment. Dila Ram admitted that he knew Paras Ram and he thought it better to depute him to summon Krishnool, Gokal etc. for getting the payments. As I have stated before, it was not even necessary for Randhir Singh or Kuldip Singh to have brought in Dila Ram or Paras Ram, for no rhyme or reason.

Regarding the second payment which was not at Jamli, three witness were examined, Jyoti Ram (P.W. 18), Sunder Ram (P.W. 19), Chet Ram Fauji (P.W. 20). It is stated that Chet Ram approached Jyoti Ram and Sunder Ram and told them to go to village Jamli where they reached at the shop of Lekh Ram and received the payments. It is stated that at that time Parma Nand received Rs. 1,200 from Kuldip Singh while Jyoti Ram received Rs. 500. Thus the help of Chet Ram Fauji was taken to bring Jyoti Ram and Sunder Ram to receive these payments. Lekh Ram was also named as the shop-keeper in whose presence these payments were made. Jyoti Ram (P.W. 18) stated that Chet Ram Fauji (P.W. 20) called him and said that Sunder Ram (P.W. 19) and he should go to village Jamli. Accordingly, they went there and reached the shop of Lekh Ram where Kuldip Singh gave them the election posters and distributed the money. Rs. 500 were given to Chet Ram who in return gave that amount to Jyoti Ram. Thus the payment was made through the hands of Chet Ram for no rhyme or reason. Kuldip Singh could have directly made the payment to Jyoti Ram (P.W. 18). The witness Jyoti Ram's interest can be seen from the fact that he produced one of the posters from his pocket which according to him was lying there for the last six months. He was not summoned with this poster still he produced it in support of Sankhyan. Like others, this witness also did not tell Sankhyan that he had received Rs. 500 from Kuldip Singh. He admitted that he gave a receipt for the payment. Such a receipt was neither produced nor summoned from the witness. He said that the receipt was no doubt written but it was not signed. He could tell what was written in the receipt. There was some writing made at that time. The witness also did not count the notes. Chet Ram (P.W. 20) counted them on his behalf. He also distributed Rs. 500 amongst Buddha, Bakshi, Munshi and Sunder. Neither of these persons have been examined. During the previous election he had received money for election work. The entire statement seems to be concocted one. Sunder Ram (P.W. 19) is not named in the list given by the petitioner with reference to these payments. However, he stated that Chief Ram approached him and asked him and Jyoti to go to village Jamli. Accordingly, they went there. Kuldip Singh came in a jeep and gave the election posters to Jyoti Ram, Kuldip Singh also gave Rs. 500 to Jyoti Ram. He stated that Kuldip Singh also gave Rs. 1,200 to Prem Nath but the latter has not been examined. When asked about the details of that jeep, the witness started saying that he did not know the difference between a car and a jeep. In this manner he seems to be concealing hard facts. He also stated that a receipt was given for the payment of Rs. 500. Similarly another receipt was given for the payment of Rs. 1,200. The witness did not tell Sankhyan about these payments. He very much stated that he was stating about this payment for the first time in court. He could not tell if there was any driver sitting in the jeep. He also could not tell if any body else had come with Kuldip Singh in that jeep. Thus he did not admit the presence of Randhir Singh. He told that he distributed these posters at the houses of several persons whom he named. None of them was produced. Chet Ram Fauji (P.W. 20) stated that he was deputed by Kuldip Singh to do his work in the election. His deputation started in a very strange manner. By chance he was travelling in a bus and Kuldip Singh was found sitting in that very bus. A casual talk arose and despite they being strangers, Kuldip Singh appointed him to do his election work and the witness agreed. Such a person, in my opinion, could not be taken into confidence for making the payments of Rs. 1,200 and Rs. 500 said to be made by Kuldip Singh

for election work. Still Chet Ram Fauji had his own story to tell. He said that he was deputed by Kuldip Singh to approach Jyoti Ram and Sunder Ram and to bring them to Jamli to receive the payments. He also stated about the payments made to Prema Nand in his presence. Prema Nand and Jyoti Ram did not distribute the money to anybody else. The other witness had stated about this further distribution made by Prema Nand and Jyoti Ram. He could not tell if Kuldip Singh was accompanied by anybody also when he came to give the money. Thus this witness also is entirely unreliable.

The third incident of payment took place in Alikhud. The story of this payment runs like this. Randhir Singh is stated to have come to Brij Lal (P.W. 23). The latter goes to village Bholi and brings Devi Ram and then he goes to village Gori and brings Bada Ram. Thereafter, they all come to the shop of Munshi Ram where Randhir Singh makes the payment of Rs. 1,200 to Bada Ram and Rs. 600 to Dev Ram. In this manner, Brij Lal and Munshi Ram have unnecessarily been brought in to witness the payments. For Alikhud payment only Brij Lal (P.W. 23) agreed to state in favour of the petitioner. Therefore, he was examined and he stated in the manner mentioned above. It is very strange that Brij Lal would have gone to villages Bholi and Gori and traversed long distances to bring Devi Ram and Bada Ram. Instead of making payments at the house of Brij Lal or at village Bholi or at Gori, all of them go to Alikhud at the shop of Munshi Ram. Everything sounds strange. Bada Ram, Devi Ram and Munshi Ram have not been produced. The witness Brij Lal (P.W. 23) is interested in Sankhyān. His brother-in-law, Hari Ram, it appears was covering candidates for Sankhyān. Gori is at a distance of 2½ miles from Bholi which the witness admitted. From Bholi, Alikhud is at a distance of about 6 km. According to the witness, he had met by chance Randhir Singh when he was standing in the Verandah of a shop. Their meeting was not previously arranged. It is simply ridiculous that Randhir Singh would just come across Brij Lal standing in a verandah and at once plan to make the payments of Rs. 1,200 and 600 in this manner. The witness told Sankhyān about these payments during the pendency of the present petition. The witness had approached Kuldip Singh to stop the transfer of his two brothers. It appears Kuldip Singh did not oblige him and so he agreed to appear as witness against him. Like others he also admitted that the receipts were written for the two payments. Bada Ram and Devi Ram had signed such receipts.

As against these witnesses, the respondent Kuldip Singh (D.W. 28) gave his own statement and produced his nephew Randhir Singh (D.W. 27) Dila Ram (P.W. 5) had stated that the payments of Laraghat were made on 18th February, 1972. That was the day when the two election meetings were held at Chakoh and Namhol. Tadu (D.W. 9) and Kuldip Singh (D.W. 28) were very much present in those meetings. According to Tadu, Kuldip Singh was available with him from morning until 9.30 P.M. on that day. Both of them were busy in the election meetings and had gone with the Chief Minister to Chakoh, Namhol and Ghumarwin. Thereafter, they returned to Bilaspur at 9.30 P.M. As such there was no occasion for Kuldip Singh to have gone to Laraghat to make the payments to Krishnoo, Gokal etc. Lekh Ram, shop-keeper of Jamli (D.W. 20) denied that the payments were made at his shop to Jyoti Ram (P.W. 18) or Sunder Ram (P.W. 19). He denied that Chet Ram Fauji (P.W. 20) had brought those persons at his shop or Kuldip Singh or

Randhir Singh had arrived to make the payments. Similarly, no payment was made to Prema Nand. According to the witness, Sunder Ram (P.W. 19), Chet Ram Fauji (P.W. 20), Jyoti Ram (P.W. 18) and Prema Nand were the election workers of Sankhyān. That is why these persons have been produced by Sankhyān as witnesses. Lekh Ram further stated that these persons were not election workers of Kuldip Singh. Randhir Singh (D.W. 27) denied that he made any payment to anybody on behalf of Kuldip Singh. He also denied that he ever gave any election poster on behalf of Kuldip Singh for distribution. He denied that any payment was made to Krishnoo, Gokal, Paras Ram, Devi Ram or Bada Ram. Similarly, Kuldip Singh (D.W. 28) denied that any such payments were made on his behalf by Randhir Singh or anybody else. He denied that he went to Laraghat or to Jamli to make the payment. The respondent stated that he did not spend anything extra than what he had mentioned in his election accounts.

With this state of evidence on the record, it is not difficult to conclude that the petitioner has miserably failed to prove any item of payment to these persons.

In fact the entire evidence seems to be produced with cannot be believed.

It is then stated by the petitioner that a station wagon, a jeep and a car were engaged by Kuldip Singh and a sum of Rs. 3,000 was spent for these vehicles. The plea has got only to be stated to be rejected. There is no evidence worth the name to substantiate it. There is a solitary witness Ganu Ram (P.W. 9), who is Clerk in the office of the Himachal Government Transport. In the petition, it was stated that a car bearing No. HIM 4039 was engaged by Kuldip Singh. According to Ganu Ram who spoke on the basis of record this registration number existed for a jeep which was allotted to Lok Raj Party and, therefore, it was not allotted to Kuldip Singh. A car was no doubt allotted to Kuldip Singh of which the registration No. was quite different. Another jeep was allotted to congress party and not to Kuldip Singh. The log book (Ex. P. 5) was also filed by the witness. It could not therefore be proved that any amount in addition to what was shown in the election expenses was incurred by Kuldip Singh in engaging any other vehicle. The plea is not sustainable.

It is also stated that after the meeting of Namhol was over a lunch was given to Dr. Parmar and Kuldip Singh spent Rs. 150 in that lunch. This plea is not borne out from the record. The only witness who stated about this is Sant Ram (P.W. 24). The witness is supposed to be present in the election meeting. He stated that Kuldip Singh spent Rs. 150 over that lunch. The edibles were brought from the hotel-keeper Butu Ram. This hotel-keeper is the son-in-law of the witness Sant Ram. That is why his name was taken by the witness. However, Butu Ram was not produced to substantiate the plea. In fact the expenses were met by Tulsi Ram (D.W. 6) who was Pradhan of Namhol Panchayat. The witness Sant Ram (P.W. 24) could not deny that the expenses were met by Tulsi Ram (D.W. 6). So his statement is good for nothing. The witness named Daya Ram as being present when the payment was made by Kuldip Singh. Daya Ram has not been produced by the petitioner. Tulsi Ram (D.W. 6) on the other hand emphatically stated that he had met the expenses of that lunch. He spent Rs. 30 or Rs. 40 from his pocket. He had also sent for other edibles from his house which existed nearby. The witness denied that Kuldip Singh had arranged for the

lunch or had paid for it. Kuldip Singh (D.W. 28) of course denied that he spent any amount over that lunch. He also affirmed that Tulsi Ram (D.W. 6) being Pradhan of the Panchayat had spent from his pocket and never at the instance of the respondent. Therefore, it has not been proved that Rs. 150 or any amount has been spent by Kuldip Singh over that lunch.

The last plea of the petitioner pertains to the new bulletin which was broadcast from the All India Radio, Simla on 10-2-1972 at 7.15 P.M. in their Pradeshik Samachar. It is stated that in that news bulletin it was broadcast that Sankhyan had been dismissed from the post of Deputy Minister and that the dismissal was due to certain charges proved against him. It was also stated that undue favour was shown by Sankhyan to his relations and he had also acted arbitrarily while performing the duties of the Deputy Minister. According to Sankhyan, the statement was false and related to his personal character and conduct. It was further stated by him that on 11-2-1972 the Urdu daily 'Partap' also published that news and this further aggravated the situation. On this account, according to the petitioner, he was disreputed and his election result was materially affected.

The respondent rightly pointed out that the Chief Minister of the Government of the State who removed Sankhyan from his office were not his agents. Similarly, he pointed out that the All India Radio was also not his agent. How could the respondent be held responsible for the news item which was definitely based on a communication received in the office of the All India Radio from the government sources? This plea of the respondent is easily sustainable and no exception could be taken to this plea.

Ex. P. 12 is the broadcast which was made on 7-2-1972 at 7.15 P.M. The petitioner did not object to this broadcast because it was mentioned therein that Sankhyan had resigned. The broadcast of 10-2-1972 is Ex. P. 13. It was stated that the Governor had removed Sankhyan from his office because the Chief Minister had charged him with the misuse of public funds in favour of his relation and friends. It was further mentioned that Sankhyan was acting arbitrarily. However, the position of Sankhyan was also safeguarded in the broadcast because it was mentioned that he had submitted his resignation from the office of Deputy Minister and denied the allegation of corruption made against him. It was also mentioned that Sankhyan gave out that he was prepared to face a Judicial enquiry. These statements were definitely in favour of Sankhyan. Therefore, the effect of the new bulletin was very much mitigated by the second limb of the news that was broadcast in the bulletin. In fact the news item was issued from Public Relations Department of the Government. That news item is Ex. P. 14. The resignation letter of Sankhyan is dated 7-2-1972 (Ex. D. 24). The order of removal made by the Governor is dated 10-2-1972 (Ex. D. 25). The petitioner produced one witness S. B. Saharia (P.W. 17) Station Director of the All India Radio, Simla. He proved the authenticate copies of the two news bulletins dated 7-2-1972 and 10-2-1972 which were

broadcast at 7.15 P.M. He very much affirmed that the news items were based on press notes issued by the Himachal Pradesh Government. His statement does not improve the case of the petitioner in any manner. According to Sankhyan (P.W. 37) the version was that he had been dismissed from the post. The actual words were "Pad Se Hata diye", which does not necessarily mean dismissed but can aptly mean removed from the post. The respondent was not responsible for the news item of Urdu daily 'Partap' as that paper or its publishers cannot be considered his agents. There is absolutely no evidence in what manner the election prospects of Sankhyan were affected by these news bulletins. If Sankhyan stated like that it was only his wishful thinking. Sankhyan named several persons who told him that his election prospects were adversely affected. However, no such person was examined. R. C. Kaushish, Private Secretary to the Chief Minister (D.W. 24) proved the letter of resignation of Sankhyan which was processed through him. He also proved the order of removal received from the Governor. Instead of accepting the resignation of Sankhyan the order of removal was made by the Governor. In fact the Governor had withdrawn his pleasure and removed Sankhyan from his office on the advice of the Chief Minister. This the Governor could constitutionally do and no exception can be taken to the order itself. Kuldip Singh (D.W. 28) of course stated that he never requested Dr. Parmar or the Governor to remove Sankhyan from the office of Deputy Minister. He never got the news bulletin broadcast over the Radio. Therefore, it is neither established that the news bulletin was false nor that it affected the personal character or conduct or even the candidature of Sankhyan. It would not be stated that the news item was reasonably calculated to prejudice the election prospects of Sankhyan. Therefore, the pleas under section 123 (4) in respect of this news bulletin is not proved. In this manner, I have dealt with all the pleas of corrupt practices raised by the petitioner and in my opinion none of the pleas is established in favour of the petitioner. Similarly it is not proved that any provision of the Constitution or of the Act was not complied with so that the election prospects of the petitioner were materially affected. These issues are, therefore, decided against the petitioner.

Issue No. 10.

The upshot of all that I have stated above is that the petitioner is not entitled to any relief. The election of the respondent cannot be declared to be void. Nor can it be stated that the respondent or any other person committed any Act of corrupt practice within the meaning of section 123 of the Act.

ORDER

The petition is dismissed. The respondent shall get Rs. 2,500 as costs from the petitioner.

A substance of this decision shall immediately be intimated to the Election Commission and to the Speaker of the Legislative Assembly of Himachal Pradesh. Thereafter, an authenticated copy of the decision shall be sent to the Election Commission.

November 20, 1973.

Sd/-
D. B. LAL

अनुपूरक

शून्य